

This instrument was prepared by:
Kenneth S. Direktor, Esquire
Becker & Poliakoff, P.A.
500 Australian Avenue South, 9th Floor
West Palm Beach, Florida 33401

AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM
OF
WHISPER WALK SECTION C CONDOMINIUM

NOTE: This document replaces the Declaration of Condominium executed by Developer on August 24, 1988, recorded on August 25, 1988, at Official Records Book 5786, Page 245, of the Public Records of Palm Beach County, as amended to this date (hereinafter the "Original Declaration"), as well as the Replat Declaration for Whisper Walk Section C executed by Developer on January 29, 1988, recorded on July 8, 1988, at Official Records Book 5732, Page 114, of the Public Records of Palm Beach County, as amended to this date (hereinafter the "Replat Declaration"), except that all Exhibits to the Original Declaration and Replat Declaration which are not otherwise referenced herein or attached hereto remain unchanged and are hereby incorporated by reference herein as if attached hereto and made a part hereof.

1. INTRODUCTION AND SUBMISSION.

- 1.1 The Land. The real property comprising this condominium located in Palm Beach County, Florida, is more particularly described in Exhibit A to the Original Declaration. (the "Land").
- 1.2 Submission Statement. The Developer submitted the Land and all improvements thereon to the condominium form of ownership and use in Phases 1 through 58 in the manner provided for in the Florida Condominium Act.
- 1.3 Name. The name by which this condominium is to be identified is WHISPER WALK SECTION C CONDOMINIUM (hereinafter called the "Condominium").

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

- 2.1 "Act" means the Condominium Act (Chapter 718 of the Florida Statutes) as it exists on the date of recordation hereof, except where otherwise provided to the contrary.
- 2.2 "Articles" or "Articles of Incorporation" mean the Amended and Restated Articles of Incorporation of the Association, as amended from time to time.

- 2.3 "Assessment" means a share of the funds which are required for the payment of Common Expenses which from time to time is assessed against the Unit Owner.
- 2.4 "Association" or "Condominium Association" means WHISPER WALK SECTION C ASSOCIATION, INC., a not-for-profit Florida corporation, the entity responsible for the operation and maintenance of the Condominium.
- 2.5 "Association Property" means the property, real and personal, in which title or ownership is vested in, or which is dedicated on a recorded plat or leased to, the Association for the use and benefit of its members, but does not include Corporation Property, as defined in the Covenants Declaration.
- 2.6 "Board" or "Board of Directors" means the representative body which is responsible for administration of the Association.
- 2.7 "Building" means a structure situated on the Condominium Property in which the Units are located, regardless of the number thereof.
- 2.8 "By-Laws" mean the Amended and Restated By-Laws of the Association, as they are amended from time to time.
- 2.9 "Committee" means a group of Board members, Unit Owners or Board members and Unit Owners appointed by the Board or the President to make recommendations to the Board regarding a proposed annual budget or otherwise to take action on behalf of the Board.
- 2.10 "Common Elements" means and includes: The portions of the Condominium Property which are not included in the Units, including, without limitation, the following items:
- (a) Easements through Units for conduits, pipes, ducts, vents, plumbing, wiring and other facilities, equipment and/or fixtures for the furnishing of Utility Services and/or heating, cooling, ventilation, or other services to more than one (1) Unit or to the Common Elements, together with related property and installations.
 - (b) An easement of support in every portion of a Unit which contributes to the support of the Building, other Units and/or any part of the Common Elements.
 - (c) The property and installations required for the furnishing of utilities and other services to more than one Unit or to the Common Elements.
 - (d) All bearing walls to the unfinished surface of said walls located within a Unit and all columns, partitions or any other portion of the Building which contributes to support of the Building constitute part of the Common Elements.
 - (e) All conduits, wires and utility lines up to, but excluding any outlets located within the unit. Waste disposal pipes up to the point the County takes responsibility shall constitute part of the common elements.
 - (f) The sidewalks, driveways and wood fences, if any, shall constitute part of the common elements.

- 2.11 "Common Expenses" means: (1) expenses of administration and management of the Condominium Property; (2) expenses of maintenance, operation, protection, repair or replacement of Common Elements and Association Property, as well as those portions of the Units for which the Association is responsible; (3) expenses declared Common Expenses by the provisions of this Declaration or by the By-Laws; (4) any valid charge against the Association or against the Condominium Property; (5) the costs of carrying out the powers and duties of the Association; (6) expenses for which Owners are liable to the Corporation (including but not limited to "Central Recreation Area Expenses" as defined in the Covenants Declaration) and as more specifically described in the Covenants Declaration; and (7) all expenses properly incurred by the Association in the performance of its duties, including expenses specified in Florida Statute, Section 718.115. Common expenses also include all reserves required by the Act or otherwise established by the Board, reasonable transportation services, insurance for directors and officers, road maintenance and operation expenses, in-house communications, security services, and pest control services to the Units and Common Elements, which are reasonably related to the general benefit of the Unit Owners even if such expenses do not attach to the Common Elements or property of the Condominium. The cost of a master antenna television system or duly franchised cable television service obtained pursuant to a bulk contract shall also be a common expense, but shall be allocated on a per unit basis, and shall not include any other separate obligations of individual Unit Owners.
- 2.12 "Common Surplus" means the amount of all receipts or revenues, including Assessments, rents or profits collected by the Association which exceeds Common Expenses.
- 2.13 "Condominium Parcel" means a Unit together with the undivided share in the Common Elements appurtenant to said Unit; and when the context permits, the term includes all other appurtenances to the Unit.
- 2.14 "Condominium Property" means the lands, leaseholds, improvements and other personal property submitted to Condominium ownership by the Original Declaration, subject to the limitations thereof and exclusions therefrom, and all easements and rights appurtenant thereto intended for use in connection with the Condominium.
- 2.15 "Corporation" means Whisper Walk Association, Inc., a Florida corporation not for profit.
- 2.16 "County" means the County of Palm Beach, State of Florida.
- 2.17 "Covenants Declaration" means that certain Declaration of Protective Covenants and Restrictions for Whisper Walk recorded at Official Records Book 3943, Page 20, of the Public Records of Palm Beach County.
- 2.18 "Declaration" or "Declaration of Condominium" means this instrument, as it may be amended from time to time.
- 2.19 "Developer" means Oriole-Boca, Inc., a Florida corporation.
- 2.20 "Improvements" means all structures and artificial changes to the natural environment (exclusive of landscaping) located on the Condominium Property, including, but not limited to, the Buildings.

- 2.21 "Institutional Mortgagee" means any lending institution having a mortgage lien upon a Unit, including, but not limited to, any of the following institutions or entities: (i) a federal or state savings and loan association or bank doing business in the State of Florida or a life insurance company doing business in Florida which is approved by the Commissioner of Insurance of the State of Florida, or bank or real estate investment trust, or a mortgage banking company licensed to do business in the State of Florida, or any subsidiary thereof licensed or qualified to make mortgage loans in the State of Florida or a New York State banking corporation or a national banking association chartered under the laws of the United States of America; or (ii) such other Lenders as the Board shall hereafter designate as such in writing which have acquired a mortgage upon a Unit; or (iii) any "Secondary Mortgage Market Institution" including Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and such other Secondary Mortgage Market Institution as the Board shall hereafter designate as such in writing which has acquired a mortgage upon Units.
- 2.22 "Legal Fees" mean (a) reasonable fees for attorney and paralegal services incurred in negotiation and preparation for litigation, whether or not an action is actually begun, through and including all trial and appellate levels and postjudgment proceedings; and (b) court costs through and including all trial and appellate levels and postjudgment proceedings.
- 2.23 "Limited Common Elements" means those Common Elements the use of which is reserved to a certain Unit or Units to the exclusion of other Units, as specified in this Declaration. References herein to Common Elements also shall include all Limited Common Elements unless the context would prohibit or it is otherwise expressly provided.
- 2.24 "Listed Mortgagee" means the holder, insurer, or guarantor of a mortgage encumbering a Unit of which the Association has been notified pursuant to Section 23 hereof.
- 2.25 "Member" means an Owner who, or which, is a member of the Association.
- 2.26 "Unit" means a part of the Condominium Property which is subject to exclusive ownership.
- 2.27 "Unit Owner" or "Owner of a Unit" or "Owner" means the record owner of a Unit.
- 2.28 "Utility Services" as used in the Condominium Act and construed with reference to this Condominium and as used in this Declaration, the Articles of Incorporation and By-Laws shall include, but not be limited to, electric power, gas, water, heating, air-conditioning, cable television, sprinkler, irrigation, drainage, sewage and garbage disposal.
- 2.29 "Whisper Walk" means the multi-sectioned, planned community known as "Whisper Walk" planned for development as more particularly described in the Covenants Declaration.

3. DESCRIPTION OF CONDOMINIUM.

- 3.1 Identification of Units. The Land has constructed thereon fifty-nine (59) Buildings containing a total of two hundred eighty (280) Units. Each Building is identified by a separate numerical designation and each Unit is further

identified by a separate alphabetical designation. The designation of each of the Buildings and each of the Units is set forth on Exhibits B-1 through B-59 to the Original Declaration, which also consist of a graphic description of the Improvements, including, but not limited to, each Building in which the Units are located, and a plot plan thereof. Said Exhibits B-1 through B-59 to the Original Declaration, together with this Declaration, is sufficient in detail to identify the Common Elements and each Unit and their relative locations and dimensions. There shall pass with a Unit as appurtenances thereto (a) an undivided share in the Common Elements and Common Surplus; (b) the exclusive right to use such portion of the Common Elements as may be provided in this Declaration; (c) an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, provided that an easement in airspace which is vacated shall be terminated automatically; (d) membership in the Association with the full voting rights appurtenant thereto; and (e) other appurtenances as may be provided by this Declaration.

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

- (a) Upper Boundaries. The upper boundary of the Unit shall be the sloped and horizontal planes of the unfinished ceiling extended to an intersection with each other and with the perimetrical boundaries. The upper boundary of the portion of the Unit comprising the porch shall be the plane of the lowest surface of the unfinished porch ceiling.
- (b) Lower Boundaries. The lower boundary of the Unit shall be the horizontal plane of the unfinished floor slab of the Unit and the horizontal plane of the upper surface of the unfinished porch extended to an intersection with the perimetrical boundaries.
- (c) Perimetrical Boundaries. The perimetrical boundaries of the Unit shall be the following boundaries extended to an intersection with upper and lower boundaries:
 - (1) Exterior Building Walls. The intersecting vertical planes of the innermost unfinished surfaces of the exterior wall of the Building bounding such Unit and as to the porch which is part of a Unit, such boundaries shall be the intersecting vertical planes which include all of such structures.
 - (2) Interior Building Walls. The vertical planes of the innermost unfinished surface of the interior walls separating the Units extended to intersections with other perimetrical boundaries.
- (d) Apertures. Where there are apertures in any boundary, including, but not limited to, windows and doors, such boundaries shall be extended to include the interior, unfinished surfaces of such apertures, including all frameworks thereof. Exterior surfaces made of glass or other transparent materials, exterior doors of any type, including the locks, hinges and other hardware therefor, and all framings and casings therefor, shall be included in the boundaries of the Unit.

- (e) Excluded From Units. The Unit shall not be deemed to include utility services which may be contained within the boundaries of the Unit but which are utilized to serve Common Elements and/or a Unit or Units other than or in addition to the Unit within which contained. Nor shall it include columns, partitions or any other portion of the Building which contributes to the support of the Building. The items herein identified are part of the Common Elements.

3.3 Limited Common Elements. Each Unit may have, to the extent applicable and subject to the provisions of this Declaration, as Limited Common Elements appurtenant thereto:

- (a) Entrance Area and Yard Area. Each area shown on the surveys as an "Entrance Area" or "Yard Area" shall be a Limited Common Element reserved for the exclusive use of the Owner of the Unit adjacent thereto, which Entrance Area and/or Yard Area shall be maintained by the Association. Notwithstanding the Association's maintenance responsibility, Owners shall be permitted to install shrubbery and flowering plants ("Plantings") in the Entrance Areas and/or Yard Areas directly adjacent to their Units provided that: (i) such Plantings shall be maintained by the Owner and shall not become part of the Common Elements; (ii) the Association shall not be responsible for any damages done to such Plantings as a result of its maintenance of the Entrance Areas and/or Yard Area; and (iii) if the Association, in its sole discretion, determines that such Plantings have not been properly maintained, the Association shall have the right to remove any plant material and restore the Entrance Areas and/or Yard Areas to their original condition at the expense of the Owner, which shall be enforceable in the same manner as any assessment under Section 12 hereof, including, but not limited to, by recordation and foreclosure of a claim of lien against the Unit.
- (b) A/C Land. The portion of the Land upon which is situated air conditioning equipment ("Equipment") located outside a Unit ("A/C Land"), including the compressors located adjacent to the Building in which the Unit is located and the coolant lines between such compressors and the Units, shall be a Limited Common Element for the exclusive use of the Unit served by the Equipment and shall be maintained by the Owner of the Unit served thereby. The Equipment shall be the personal property of the Owner whose Unit is served thereby.
- (c) Fences. Any fence separating one Yard Area from another ("Fence") is also hereby designated as a Limited Common Element to be reserved for the exclusive use of the Owners of the Units who have the exclusive right to use the Yard Areas which abut such Fence. The Fences located in front of the Units on the perimeter boundary of the Condominium Property, if any, as shown on the Survey, shall be Common Elements. All fencing described in this subparagraph (c) shall be maintained, repaired and replaced, as appropriate, by the Association at common expense.
- (d) Assignment of Parking Spaces. There shall be assigned to each Unit the exclusive right to the use of two (2) parking spaces. The assigned parking spaces for each Unit shall automatically be the entire driveway located in front of the garage of the respective Unit. The right to use such assigned parking spaces shall be appurtenant

to said Unit and shall be deemed encumbered by and subject to any mortgage or any claim thereafter encumbering said Unit. Upon conveyance of or passing of title to the Unit to which the use of such Parking Spaces is appurtenant, the Owner receiving such title shall automatically be assigned the entire driveway located in front of the garage of the Unit to which the Owner received title. Any parking in parking spaces other than assigned parking spaces shall be subject to such rules and regulations as the Board may make and amend from time to time.

3.4

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

(a)

Perpetual Nonexclusive Easement. The walks and other rights-of-way in this Condominium as shown on the Surveys or hereafter located within this Condominium, if any, shall be, and the same are hereby declared to be, subject to a perpetual nonexclusive easement for ingress and egress and access in, over and across the same to public ways, including dedicated streets and to and from all portions of Whisper Walk, which easement is hereby created in favor of all the Owners in this Condominium now or hereafter existing for their use and for the use of their family members, guests, invitees or lessees, the Association and such appropriate utility and other service companies or lessees or the providers of the services hereinafter set forth as may be from time to time designated by the Board for ingress and egress, and for the installation, maintenance, construction and repair of facilities, including, but not limited to, electric power, telephone, sewer, water, gas, drainage, irrigation, lighting, television transmission, cable television and communications systems removal and the like and for all purposes incidental thereto. The Board shall have the right to impose upon the Common Elements henceforth and from time to time such easements and cross-easements for any of the foregoing purposes as it deems to be in the best interests of and necessary and proper for Section C and the balance of Whisper Walk. The use of the foregoing easements shall be subject to such rules and regulations as the Board may make and amend from time to time.

(b)

Easements and Cross-Easements on Common Elements. Inasmuch as the Condominium constitutes a part of Whisper Walk, the Common Elements of the Condominium shall be and the same are hereby duly declared to be subject to perpetual nonexclusive easements in favor of the Association, and such appropriate utility, telecommunications and other service companies or the providers of the services hereinafter set forth as may be from time to time designated by the Association to and from all portions of Whisper Walk for ingress and egress, and for the installation, maintenance, construction and repair of facilities, including, but not limited to, electric, power, telephone, sewer, water, gas, drainage, irrigation, lighting, television, transmission, cable television and communications systems transmission, reception and monitoring, security, garbage and waste removal, and the like and for all purposes incidental thereto. Association shall have the right to impose upon the Common Elements henceforth and from time to time such easements and cross-easements for any of the foregoing

purposes as it deems to be in the best interests of and necessary and proper for the Condominium and the balance of Whisper Walk.

- (c) Settlement or Movement of Improvements. All the Condominium Property shall be subject to easements for encroachments, which now or hereafter exist, caused by settlement or movement of any improvements upon the Condominium Property or improvements contiguous thereto or caused by minor inaccuracies in the building or rebuilding of such improvements. The above easements shall continue until such encroachments no longer exist.

- (d) Air Space. All the Land and improvements thereon, including, but not limited to, the Condominium Property, shall be subject to perpetual easements for encroachments, for so long as such encroachment exists, in favor of each Unit and the Owners thereof, their family members, guests, invitees and lessees for air space for any balcony, terrace or porch of any Unit, and the reasonable use, maintenance and repair of same, which extends under, over or through any of the Land and improvements thereon, including, but not limited to, the Condominium Property including, but not limited to, Common Elements. Such easements shall be appurtenances to and a covenant running with the respective Unit in whose favor such easements exist.

- (e) Term of Encroachment Easements. The above easements for encroachments shall continue until such encroachments no longer exist.

4. RESTRAINT UPON SEPARATION AND PARTITION OF COMMON ELEMENTS.

The undivided share in the Common Elements and Common Surplus which is appurtenant to a Unit, and the exclusive right to use all appropriate appurtenant Limited Common Elements shall not be separated from the Unit and shall pass with the title to the Unit, whether or not separately described. The appurtenant share in the Common Elements and Common Surplus, and the exclusive right to use all Limited Common Elements appurtenant to a Unit, except as elsewhere herein provided to the contrary, cannot be conveyed or encumbered except together with the Unit. The respective shares in the Common Elements appurtenant to Units shall remain undivided, and no action for partition of the Common Elements, the Condominium Property, or any part thereof, shall lie, except as provided herein with respect to termination of the Condominium. Notwithstanding the foregoing, an Owner may transfer a limited common element garage space or storage space assigned to his or her Unit to another Unit in the Condominium, provided, however, that no such transfer shall leave any Unit without at least one (1) assigned garage space and one (1) assigned storage space.

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

- 5.1 Percentage Ownership and Shares. Each Unit shall have, as an appurtenance thereto, an equal undivided percentage interest in the Common Elements, Common Surplus, and an equal percentage share of the Common Expenses.
- 5.2 Voting. An Owner or Owners of a Unit shall collectively be entitled to one (1) vote.

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

6.1 **By the Association.** Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered or the written agreement through which a proposed amendment is to be considered. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors of the Association or by not less than one-third (1/3) of the total voting interests of Units of the Association. Except as elsewhere provided, approvals must be by affirmative vote of a majority of the total voting interests in the Association, either at a meeting or by written agreement.

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

6.3 **Proviso.** Unless otherwise provided specifically to the contrary in this Declaration, no amendment shall change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to any Unit, or change the proportion or percentage by which the Unit Owner shares the Common Expenses of the Condominium and owns the Common Elements and Common Surplus of the Condominium, unless the record Owner(s) thereof, and all record owners of mortgages or other liens on the Unit shall join in the execution of the amendment. No amendment may be adopted which shall impair or prejudice the rights or interests of Institutional Mortgagees of Units, without their consent.

No provision of this Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of this Declaration shall contain the full text of the provision to be amended; new words shall be inserted and the text underlined; and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Declaration. See provision ... for present text." Non-material errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

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

7.1 **Units and Limited Common Elements.** All maintenance, repairs and replacements of, in or to any Unit, as defined in Exhibits B-1 through B-45 of the Original Declaration and in Section 3.2 hereof, whether structural or nonstructural, ordinary or extraordinary, and the electrical (including wiring), plumbing (including fixtures and connections), fixtures and outlets, appliances, carpets and other floor coverings, all interior surfaces and everything within the boundaries of the Unit or the Limited Common Elements, and the heating and air-conditioning equipment (wherever

situated), shall be performed by the Owner of such Unit at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein. The Unit Owner shall also maintain, repair and replace, at his, her or its sole cost and expense, all portions of any hurricane shutter(s) that the Unit Owner may install, upon prior written approval of the Association, including such portion of the Common Elements, if any, to which the hurricane shutter(s) is attached, (in the event the hurricane shutter(s) is attached to any Common Element, the Common Element to which the hurricane shutter(s) is attached shall become a Limited Common Element upon the attachment of said hurricane shutter(s), whereupon the maintenance, repair and replacement of such Limited Common Element shall be the responsibility of the Unit Owner) which the Unit Owner installs, which cost and expense shall also include the cost and expense of removal and/or reinstallation by the Association of the hurricane shutter(s) if necessary or required in order for the Association to discharge its obligations hereunder.

7.2

Common Elements and Association Property. Except to the extent (i) expressly provided to the contrary herein (i.e., as to Limited Common Elements), or (ii) proceeds of insurance are made available therefor, all maintenance, repairs and replacements in or to the Common Elements and Association Property and all portions of the Condominium (except interior wall surfaces) contributing to the support of the building, which portions shall include, but not be limited to, the outside walls of the building, chasing and load bearing railings, walls or columns; all of such portions of the Units contributing to the support of the building, and all floor and ceiling slabs, including, but not limited to, the slabs of all terraces, which shall be deemed Common Elements of the Condominium; all conduits, chases, chase areas, ducts, plumbing, air-conditioning, wiring and other facilities for the furnishing of Utility Services which are contained in the portions of the Unit contributing to the support of the building or within interior boundary walls, and all utilities contained within a Unit which service part or parts of the Condominium other than the Unit within which contained; all property owned by the Association and other property contemplated by and to the extent the same is consistent with the terms hereof; and all incidental damage caused to a Unit by such work up to a maximum of \$1,000.00 per unit (unless caused by negligent or intentional misconduct for which the Association is responsible, in which case no limitation shall apply); shall be performed by the Association and the cost and expense thereof shall be charged to all Unit Owners as a Common Expense, except to the extent arising from or necessitated by the negligence, misuse or neglect of one or more Unit Owners, their families, tenants, guests or invitees, in which case such cost and expense shall be paid solely by such Unit Owners, and shall be enforceable in the same manner as any assessment under Section 12 hereof, including, but not limited to, by recordation and foreclosure of a claim of lien against the Unit.

7.3

Specific Unit Owner Responsibilities.

- (a) The obligation to maintain, repair and replace the equipment, fixtures or utilities lines or other items of property which serve a particular Unit shall be the responsibility of the applicable Unit Owner, individually, and not the Association, without regard to whether such items are located within the boundaries of the Units.
- (b) The Unit Owner shall maintain, repair and replace, at his or her own expense, any portions of the air-conditioning and heating systems servicing his or her Unit, including, but not limited to, filters, the

compressor, condenser, motor, fan and related parts, without regard to whether such items are located within the boundaries of the Units.

- (c) All maintenance, repairs and replacements in or to exterior doors and windows and all locks and operating mechanisms, excluding the wood frames for exterior and garage doors, shall be performed by and at the expense of the Unit Owner, however, the cost and expense for the maintenance, repair or replacement of wooden frames for exterior and garage doors shall be performed by and at the expense of the Association. Without limiting the generality of the foregoing, no Unit Owner may decorate, alter or modify such exterior doors or the framework thereof in any manner whatsoever, except with the prior written approval of the Board of Directors, as provided in Section 9 hereof.
- (d) The Unit Owners shall have the obligation to maintain, repair, and replace at their expense all fans, stoves, hot water heaters, refrigerators, or other appliances or equipment, including any fixtures and/or their connections required to provide Utility Service to his Unit.
- (e) Unit Owners shall not decorate, change the appearance or color, or otherwise alter or modify any portion of the Common Elements, the exterior of the building, or the Limited Common Elements, without the prior written approval of the Board of Directors, as provided in Section 9 hereof.
- (f) Unit Owners shall promptly report to the Association any defects or need for repairs, the responsibility for the remedy of which is that of the Association.
- (g) All maintenance, repair or replacement for which the Units Owners are responsible shall be performed by contractors with appropriate licensure and such insurance as the Board of Directors may require. The Association may require proof of licensure and insurance before permitting a contractor on the Condominium Property. Any work which effects the Common Elements or Association Property, in any way whatsoever, shall not be done without prior written notice to the Association and the Association may, in the discretion of the Board, supervise such work.

8.

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

The Common Elements and Association Property, or any part thereof, may not be subject to additions, alterations or improvements (as distinguished from repairs and replacements) which involve a common expense in excess of one (1%) percent of the annual budget then in effect for Common Expenses, including operating expenses and reserves, for any individual addition, alteration or improvement, and five (5%) percent of the annual budget then in effect, including operating expenses and reserves, for all additions, alterations or improvements undertaken within a fiscal year, unless such additions, alteration or improvements have been approved by not less than sixty-six and two-thirds (66-2/3%) percent of the votes of the Members of the Association present in person or by proxy at a meeting called for that purpose at which a quorum is attained or voting by written agreement with the participation of at least a quorum of the members. Any additions, alterations or improvements to the Common Elements or Association Property, or any part thereof, costing less than one (1%) percent or five (5%) percent of the thresholds described above, may be approved by the Board of Directors without approval of

the Unit Owners. The cost and expense of any such additions, alterations or improvements to such Common Elements or Association Property undertaken by the Association shall constitute a part of the Common Expenses or Section Expenses, respectively, and shall be assessed to the Unit Owners accordingly.

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

9.1 Consent of the Board of Directors. No Unit Owner shall make any addition, alteration or improvement in or to the Common Elements or Association Property. No Unit Owner may make any addition, alteration or improvement in or to the Limited Common Elements without the prior written consent of the Board of Directors. No Unit Owner shall make any addition, alteration or improvement in or to the interior of the Unit which is structural in nature, or which impacts the Common Elements in any way, including, but not limited to, any work which involves piercing the unit boundary or exterior surface of a wall, ceiling or floor, or which requires the issuance of a permit from a governmental or regulatory authority or agency without the prior written consent of the Board of Directors. Any and all requests for electrical, mechanical and structural additions, alterations and improvements must be in writing and must be submitted with plans prepared and sealed by the appropriate professional (i.e., architect, engineer, etc.) The Board shall have the obligation to answer any written request by a Unit Owner for approval of such an addition, alteration or improvement in such Unit Owner's Unit or on the Limited Common Elements within thirty (30) days after receipt of such request and all sealed plans or thirty (30) days after receipt of any additional information requested within thirty (30) days of receipt of the initial request. Failure to respond within the stipulated time shall constitute the Board's consent. The proposed additions, alterations and improvements by the Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, and with any conditions imposed by the Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise. Once approved by the Board of Directors, such approval may not be revoked. A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, and all other Unit Owners harmless from and to indemnify them for any liability or damage to the Condominium Property and expenses arising therefrom, and shall be solely responsible for the maintenance, repair, replacement and insurance thereof from and after the date of installation or construction thereof as may be required by the Association, and shall also be responsible for all costs associated with removal and reinstallation of same when necessary, in the discretion of the Board of Directors, in connection with the Association's performance of its maintenance obligations hereunder.

9.2 Unit Owners may install hurricane shutters conforming to hurricane shutter specifications adopted by the Board, upon the prior written consent of the Board. The Board of Directors shall adopt hurricane shutter specifications for the condominium, which specifications shall comply with the applicable governmental building code, and which shall include, but not be limited to, color, style and other factors deemed relevant by the Board of Directors. Unit Owners shall be responsible for properly installing their hurricane shutters when weather conditions so require. The Association shall have the right, but not the obligation, to install or remove such approved hurricane

shutters, whether on or within the Common Elements, Units or Association Property, upon the issuance of a hurricane warning, in order to preserve and protect the Condominium Property and Association Property, in the Association's sole discretion, for any Unit in which the Unit Owner is absent or has not installed said shutters, without the Unit Owner's permission. The Unit Owners hereby release and hold harmless the Association and any of their respective employees or agents, from any liability or damages resulting from actions or non-actions in furtherance of the operation or installation of the hurricane shutters. The installation, replacement, and maintenance of hurricane shutters in accordance with the specifications adopted by the Board shall not be deemed a material alteration or substantial addition to the Common Elements or Association Property. The Association shall not refuse to approve the installation or replacement of hurricane shutters conforming to the specifications adopted by the Board of Directors of the Association.

- 9.3 The Board may appoint an Architectural Control Committee to assume the foregoing functions on behalf of the Board and to make recommendations to the Board. The Board may condition its approval of any addition, alteration or improvement hereunder on the verification of licensure and insurance of the Unit Owner's contractor, the opinion of an engineer provided at the Unit Owner's expense as to the advisability of the proposed addition, alteration or improvement, and/or the execution of a covenant to run with the Unit memorializing the Unit Owner's responsibility with respect to such addition, alteration or improvement, and otherwise protecting the interests of the Association.

10. **OPERATION OF THE CONDOMINIUM BY THE ASSOCIATION: POWERS AND DUTIES.**

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

- (a) The irrevocable right to have access to each Unit from time to time during reasonable hours when necessary for the inspection, maintenance, repair or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to this Declaration or at any time as necessary to prevent damage to the Common Elements or to a Unit or Units. Unit Owners shall be required to notify the Association, in writing, with the name and telephone number of an individual who can be reached within Palm Beach County who has a key to the unit and can provide access to the unit on an emergency basis. If the person so designated by the owner is unavailable or unresponsive within a reasonable time or if the owner fails to designate such a person in writing, the Association shall not be liable for any damaged caused to the unit or to the unit owner's property as a result of the Association gaining access to the unit or any delay in gaining such access.

- (b) The power to make and collect regular and special Assessments and other charges against Unit Owners and to regulate, administer, convey, lease, maintain, repair and replace the Common Elements and Association Property.
- (c) The power to acquire or convey title to real property and to mortgage real property upon the approval of a majority of all the voting interests of the Association either at a meeting or by written agreement.
- (d) The power to purchase Units at foreclosure sales and to hold, lease or sell a Unit so acquired or the power to exercise of the Association's right of first refusal hereunder
- (e) The power to acquire or convey title to or mortgage personal property and to hold, regulate, administer, convey, lease, maintain, repair, and replace same.
- (f) The right to grant, modify or move easements which are part of or cross the Common Elements or Association Property.
- (g) The duty to maintain official records according to good accounting practices, and the requirements of the Condominium Act, as same may be amended from time to time.
- (h) The power to contract for the management and maintenance of the Condominium Property and to authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of Common Elements and Association Property with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted in the Condominium documents and the Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.
- (i) The power to borrow money, execute promissory notes and other evidences of indebtedness and to give as security therefor mortgages and security interests in property owned by the Association, subject to the limitation on mortgaging Association real property set forth in Paragraph (c) of this Article 10.1.
- (j) The power to adopt and amend rules and regulations concerning the details of the operation and use of the Units, the Common Elements, Association Property and the Condominium Property.
- (k) The power to lease and/or charge a fee for the exclusive use of Common Elements (other than Limited Common Elements) or Association Property to any Unit Owner being granted, by the Association, a right to such exclusive use.
- (l) All of the powers which a corporation not for profit in the State of Florida may exercise.

In the event of conflict among the powers and duties of the Association and the terms and provisions of this Declaration, or the exhibits attached hereto,

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

10.2

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

10.3

Restraint Upon Assignment of Shares in Assets. The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit.

10.4

Approval or Disapproval of Matters. Whenever the decision of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, that decision shall be expressed by the same person who would cast the vote for that Unit if at an Association meeting, unless the joinder of all record Owners of the Unit is specifically required by this Declaration or by law.

10.5

Acts of the Association. Unless the approval or action of Unit Owners and/or a certain specific percentage of the Board of Directors of the Association is specifically required in this Declaration, the Articles of Incorporation or By-Laws of the Association, applicable rules and regulations or applicable law, all approvals or actions required or permitted to be given or taken by the Association under the Declaration, Articles of Incorporation or By-Laws shall be given or taken by the Board of Directors, without the consent of Unit Owners, and the Board may so approve and act through the proper officers of the Association without a specific resolution. When an approval or action of the Association is permitted to be given or taken hereunder or thereunder, such action or approval may be conditioned in any manner the Association deems appropriate or the Association may refuse to take or give such action or approval without the necessity of establishing the reasonableness of such conditions or refusal.

11.

DETERMINATION OF COMMON EXPENSES AND FIXING OF ASSESSMENTS THEREFOR. The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of Assessments payable by the Unit Owners to meet the Common Expenses of the Condominium and allocate and assess such expenses among the Unit Owners in accordance

with the provisions of this Declaration and the By-Laws. Additionally, the Board of Directors may levy special assessments when determined by the Board of Directors to be necessary. The Board of Directors shall advise all Unit Owners promptly in writing of the amount of the Assessments payable by each of them as determined by the Board of Directors as aforesaid and shall furnish copies of each budget, on which such Assessments are based, to all Unit Owners. The Common Expenses shall include the cost of funding any reserve required by law or otherwise provided for in the budget, the operation, maintenance, repair and replacement of the Common Elements and Association Property, costs of carrying out the powers and duties of the Association and any other expenses designated as Common Expenses by the Act, this Declaration, the Articles or By-Laws of the Association, and applicable rules and regulations of the Association. Incidental income to the Association, if any, may be used to pay regular or extraordinary Association expenses and liabilities, to fund reserve accounts, or otherwise as the Board shall determine from time to time, and need not be restricted or accumulated. Any Budget adopted shall be subject to change to cover actual expenses at any time. Any such change shall be adopted consistent with the provisions of the By-Laws.

12. COLLECTION OF ASSESSMENTS.

12.1 Liability for Assessments. A Unit Owner, regardless of how title is acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, shall be liable for all Assessments and other charges coming due while that person is the Unit Owner. Except as provided in Section 12.4 below, the Unit Owner shall also be jointly and severally liable with the previous Owner for all unpaid Assessments and other charges that came due up to the time of the transfer of title. This liability is without prejudice to any right the Owner may have to recover from the previous Owner the amounts paid by the Owner. The person acquiring title shall pay the amount owed to the Association within thirty (30) days after transfer of title. Failure to pay the full amount when due shall entitle the Association to record a claim of lien against the Condominium Parcel and proceed in the same manner as provided herein and in the Act, as amended from time to time, for the collection of unpaid Assessments. The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or Association Property or by the abandonment of the Unit for which the Assessments are made or otherwise.

12.2 Default in Payment of Assessments for Common Expenses. Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at the highest lawful rate from the date due until paid. In addition to the above stated interest, the Association shall charge an administrative late fee in an amount not to exceed the highest amount provided for in the Act, as same may be amended from time to time, on Assessments and installments thereof not paid when due. All partial payments upon account shall be applied to in the manner prescribed in the Act, as same may be amended from time to time. The Association has a lien on each Condominium Parcel to secure the payment of Assessments. The lien is effective from and shall relate back to the earliest date permitted by law, but in no event later than the date of recording of this Declaration. However, as to an Institutional First Mortgagee of record, the lien is effective as of the date of the recording of a claim of lien in the Public Records of Palm Beach County. All claims of lien must state the description of the Condominium Parcel, the name of the record Owner, the name and address of the Association, the amount due and the due dates and must be executed and acknowledged by an officer or authorized agent of the Association. The claim of lien shall secure (whether or not stated therein) all unpaid

Assessments, which are due at the time a claim of lien is recorded, as well as all Assessments which may accrue subsequent to the recording of the claim of lien and prior to satisfaction of the lien or the issuance of a certificate of title, together with interest, late charges and all reasonable costs and attorney's fees incurred by the Association incident to the collection process. Upon payment in full, the person making the payment is entitled to a satisfaction of the lien. The Association may bring an action in its name to foreclose its lien in the same manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid Assessments without waiving any claim of lien. The Association is entitled to recover its reasonable attorney's fees incurred in either a lien foreclosure action or an action to recover a money judgment for unpaid assessments. As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid, the Association may declare the Assessment installments for the remainder of the fiscal year in which a claim of lien has been filed to be accelerated, as provided in Section 12.7 below.

12.3

Appointment of Receiver to Collect Rental. If the Unit Owner remains in possession of the Unit or rents the Unit, the rents are hereby deemed assigned to the Association upon default by the Unit Owner in the timely payment of assessments and the Association may collect rental from the tenant if the Unit is rented, or from the Unit Owner if the Unit Owner remains in possession after an action for foreclosure is filed, and may request the Court in its discretion to require the tenant or the Unit Owner to pay such rental for the Unit into the Court Registry or the Association is entitled to the appointment of a receiver to collect such rental.

12.4

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

12.5

Certificate of Unpaid Assessments. Within fifteen (15) days after request by a Unit Owner or mortgagee of a Unit, the Association shall provide a certificate stating whether all Assessments and other moneys owed to the Association by the Unit Owner with respect to his Unit have been paid. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby.

12.6

Installments. Regular Assessments may be collected monthly or quarterly, in advance, at the option of the Association from time to time. Special assessments shall be payable on such terms as may be established by the Board.

12.7 Acceleration of Assessment Installments Upon Default. If a Unit Owner shall be in default in the payment of an installment upon an Assessment, the Board may accelerate the remaining installments of the Assessment upon notice to the Unit Owner, and the then unpaid balance of the Assessment shall be due upon the date stated in the notice.

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

13.1 Purchase, Custody and Payment.

- (a) Purchase. All insurance policies described herein covering portions of the Condominium Property shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida.
- (b) Named Insured. The named insured shall be the Association, individually, and as agent for Owners of Units covered by the policy, without naming them, and as agent for their mortgagees, without naming them. The Unit Owners and their mortgagees shall be deemed additional insureds.
- (c) Custody of Policies and Payment of Proceeds. All policies shall provide that payments for losses made by the insurer shall be paid to the Insurance Trustee (if appointed), and all policies and endorsements thereto shall be deposited with the Insurance Trustee.
- (d) Personal Property and Liability. Except as specifically provided herein or by the Act, the Association shall not be responsible to Unit Owners to obtain insurance coverage upon the property lying within the boundaries of their Unit, including, but not limited to, their personal property, and for their personal liability and living expense and for any other risks not otherwise insured in accordance herewith, which coverage shall be obtained by the Unit Owners in accordance with Section 13.4 hereof.

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

- (a) Casualty. The Buildings [including all fixtures, installations or additions comprising that part of the Building within the boundaries of the Units which are required by the Act to be insured under the Association's policy(ies)], but excluding all furniture, furnishings, unit floor coverings, wall coverings and ceiling coverings or other personal property or fixtures owned, supplied or installed by Unit Owners or tenants of Unit Owners, and also excluding hurricane shutters, and the following equipment located within a Unit: electrical fixtures, appliances, air conditioning or heating equipment, water heaters, built-in cabinets or any other item, personal property, fixture, appliance or equipment permitted to be excluded from the Condominium's insurance policy pursuant to the Act, as same may be amended from time to time] and all Improvements located on the Common Elements and Association Property from time to time, together with all fixtures, service equipment, personal property and supplies constituting the Common Elements or Association Property (collectively the "Insured Property"), shall be insured in an amount not

less than one hundred (100%) percent of the full insurable replacement value thereof, excluding foundation and excavation costs. Such policies may contain reasonable deductible provisions as determined by the Board of Directors of the Association. Such coverage shall afford protection against:

- (i) Loss or Damage by Fire and Other Hazards covered by a standard extended coverage endorsement; and
 - (ii) Such Other Risks as from time to time are customarily covered with respect to Buildings and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.
- (b) Liability. Comprehensive general public liability and automobile liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Insured Property or adjoining driveways and walkways, or any work, matters or things related to the Insured Property, with such coverage as shall be required by the Board of Directors of the Association, with combined single limit liability of not less than One Million (\$1,000,000.00) Dollars for each accident or occurrence, Five Hundred Thousand (\$500,000.00) Dollars per person and Fifty Thousand (\$50,000.00) Dollars for 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 and other mandatory insurance, when applicable.
- (d) Flood Insurance if required or if the Association so elects.
- (e) Fidelity Insurance. The Association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time, or in an amount not less than the minimum sum required by the Act, as same may be amended from time to time. As used in this paragraph, the term "persons who control or disburse funds of the Association" includes, but is not limited to, those individuals authorized to sign checks and the president, secretary, and treasurer of the Association. All persons providing management services to the Association and required to be licensed pursuant to law shall provide the Association with a certificate of insurance covering such persons under a fidelity bond in an amount not less than the minimum sum required herein. The Association shall bear the cost of, or reimburse for the cost of, bonding.
- (f) Association Property. Appropriate additional policy provisions, policies or endorsements extending the applicable portions of the coverage described above to all Association Property, where such coverage is available.
- (g) Such Other Insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

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

13.3 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 of Directors deems appropriate.

13.4 Unit Owner Coverage. Each Unit Owner shall obtain and maintain at all times, individual casualty and general liability policies insuring the property lying within the boundaries of the Unit and not covered by the Association under Section 13.2(2) above, and for their personal liability arising in the use of their own Unit and other areas of the Common Elements and Association Property for which they have exclusive use.

13.5 Insurance Trustee; Share of Proceeds. All insurance policies obtained by or on behalf of the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee which may, but need not, be designated by the Board of Directors. References herein to the Insurance Trustee shall be deemed to apply to the Board of Directors if it elects to serve such functions pursuant to Section 13.11 hereof. The Insurance Trustee shall not be liable for payment of premiums, nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Unit Owners and their respective mortgagees in the following shares, but such shares need not be set forth on the records of the Insurance Trustee:

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

(b) Optional Property. Proceeds on account of damage solely to Units and/or certain portions or all of the contents thereof or any alterations to the unit, limited common elements or elements installed by the unit owner not included in the Insured Property (all as determined by the Association in its sole discretion) (collectively the "Optional

Property"), if any is collected by reason of insurance which the Association elects to carry thereon under Section 13.2(g) hereof, shall be held for the benefit of Owners of Units or other portions of the Optional Property damaged in proportion to the cost of repairing the damage suffered by each such affected Owner, which cost and allocation shall be determined in the sole discretion of the Association.

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

13.6 Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee or the Board of Directors shall be distributed to or for the benefit of the beneficial owners thereof in the following manner:

- (a) Expenses of the Trust. All expenses of the Insurance Trustee shall be first paid or provision shall be made therefor.
- (b) Reconstruction or Repair. If the damaged property for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided herein. Any proceeds remaining after defraying such costs may be held by the Association to defer operating expenses or 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 subsection 13.5 above, and distributed first to all Institutional First Mortgagees in an amount sufficient to pay off their mortgages, and the balance, if any, to the beneficial owners.
- (d) Certificate. In making distributions to Unit Owners and their mortgagees, the Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary as to the names of the Unit Owners and their mortgagees and their respective shares of the distribution.

13.7 Damage Not Covered. The cost to repair any damage caused to a Common Element or Association Property by a Unit Owner or Unit or such Unit Owner's family members, guests, tenants, licensees or invitees, which is not covered by insurance, including lack of coverage due to a deductible, shall be the responsibility of and shall be paid by said Unit Owner. The cost of any damage to a Unit not covered by insurance caused from a source outside the Unit, which source of damage is under the control and management of the Association, and said damage is through no negligence on the part of the Association, shall be borne by the Unit Owner sustaining the damage.

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

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

13.10 Benefit of Mortgagees. Certain provisions in this Section 13 entitled "Insurance" are for the benefit of mortgagees of Units and may be enforced by such mortgagees.

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

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

14. RECONSTRUCTION OR REPAIR AFTER FIRE OR OTHER CASUALTY.

14.1 Determination to Reconstruct or Repair. In the event of damage to or destruction of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) as a result of fire or other casualty, the Board of Directors shall arrange for the prompt repair and restoration of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) and the Insurance Trustee (if appointed) shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

Notwithstanding the above, if seventy five (75%) percent or more of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) is substantially damaged or destroyed and if Unit Owners owning eighty (80%) percent of the applicable interests in the Common Elements duly and promptly resolve not to proceed with the repair or restoration thereof and a Majority of Institutional First Mortgagees approve such resolution, the Condominium Property will not be repaired and shall be subject to an action for partition instituted by the Association, any Unit Owner, mortgagee or lienor, as if the Condominium Property were owned in common, in which event the net proceeds of insurance resulting from such damage or destruction shall be divided among all the Unit Owners in proportion to their respective interests in the Common Elements (with respect to proceeds held for damage to the Insured Property other than that portion of the Insured Property lying within the boundaries of the Unit), and among affected Unit Owners in proportion to the damage

suffered by each such affected Unit Owner, as determined in the sole discretion of the Association (with respect to proceeds held for damage to the Optional Property, if any, and/or that portion of the Insured Property lying within the boundaries of the Unit); provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such fund all mortgages and liens on his Unit in the order of priority of such mortgages and liens.

Whenever in this Section the words "prompt repair" are used, it shall mean that repairs are to begin not more than ninety (90) days from the date the Insurance Trustee (if appointed) notifies the Board of Directors and Unit Owners that it holds proceeds of insurance on account of such damage or destruction sufficient to pay the estimated cost of such work, or not more than ninety (90) days after the Insurance Trustee (if appointed) notifies the Board of Directors and the Unit Owners that such proceeds of insurance are insufficient to pay the estimated costs of such work. The Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary to determine whether or not the damaged property is to be reconstructed or repaired.

14.2

Plans and Specifications. Any reconstruction or repair must be made substantially in accordance with the plans and specifications for the original Improvements and then applicable building and other codes; or if not, then in accordance with the plans and specifications approved by the Board of Directors of the Association, and if the damaged property which is to be altered is a Building containing Units, by the Owners of all Units in the Building and their mortgagees, and with the approval of at least a majority of the total voting interests in the Association.

14.3

Special Responsibility. If the damage is only to those parts of the Optional Property for which the responsibility of maintenance and repair is that of the respective Unit Owners, then the Unit Owners shall be responsible for all necessary reconstruction and repair, which shall be effected promptly and in accordance with guidelines established by the Board of Directors (unless insurance proceeds are held by the Association with respect thereto by reason of the purchase of optional insurance thereon, in which case the Association shall have the responsibility to reconstruct and repair the damaged Optional Property, provided the respective Unit Owners shall be individually responsible for any amount by which the cost of such repair or reconstruction exceeds the insurance proceeds held for such repair or reconstruction on a Unit by Unit basis, including, but not limited to, any deductibles which may be allocated, in the sole discretion of the Board). In all other instances, the responsibility for all necessary reconstruction and repair shall be that of the Association.

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

- (i) Association - Lesser Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is less than One Hundred Thousand (\$100,000.00) Dollars, then the construction fund shall be disbursed in payment of such costs upon the order of the Board of Directors of the Association; provided, however, that

upon request to the Insurance Trustee (if appointed) by an Institutional First Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner provided below for the reconstruction and repair of major damage.

- (ii) Association - Major Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is more than One Hundred Thousand (\$100,000.00) Dollars, then the construction fund shall be disbursed in payment of such costs in the manner contemplated by subparagraph (i) above, but then only upon the further approval of an architect qualified to practice in Florida and employed by the Association to supervise the work.

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

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

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

construction fund, nor to determine whether surplus funds to be distributed are less than the Assessments paid by Owners, nor to determine the payees nor the amounts to be paid. The Insurance Trustee may rely upon a certificate of the Association, made by its President and Secretary, as to any or all of such matters and stating that the sums to be paid are due and properly payable, and stating the names of the payees and the amounts to be paid.

- 14.4 Assessments for Reconstruction and Repair. 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, including, but not limited to, any deductibles. 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. Costs on account of damage to the Optional Property shall be charged to each Unit Owner in proportion to the cost of repairing the damage suffered by each Unit Owner thereof, as determined by the Association.

- 14.5 Benefit of Mortgagees. Certain provisions in this Section 14 are for the benefit of mortgagees of Units and may be enforced by any of them.

15. CONDEMNATION.

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

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

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

Insurance Trustee (if designated) after a casualty, or as elsewhere in this Section 14 specifically provided.

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

(a) Restoration of Unit. The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be charged against the Owner of the Unit. The Association shall have the right to collect and enforce such costs and charges as elsewhere provided in accordance with this Declaration, pursuant to Section 12 and applicable law.

(b) Distribution of Surplus. The balance of the award in respect of the Unit, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and such mortgagees.

(c) Adjustment of Shares in Common Elements. If the floor area of the Unit is reduced by the taking, the percentage representing the share in the Common Elements and of the Common Expenses and Common Surplus appurtenant to the Unit shall be reduced by multiplying the percentage of the applicable Unit prior to reduction by a fraction, the numerator of which shall be the area in square feet of the Unit after the taking and the denominator of which shall be the area in square feet of the Unit before the taking. The shares of all Unit Owners in the Common Elements, Common Expenses and Common Surplus shall be restated as follows:

- (i) add the total of all percentages of all Units after reduction as aforesaid (the "Remaining Percentage Balance"); and
- (ii) divide each percentage for each Unit after reduction as aforesaid by the Remaining Percentage Balance.

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

15.5 Unit Made Uninhabitable. If the taking is of the entire Unit or so reduces the size of a Unit that it cannot be made habitable (in the sole opinion and discretion of the Association), the award for the taking of the Unit shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:

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

- (b) Addition to Common Elements. The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in a condition allowing, to the extent possible, for use by all of the Unit Owners in the manner approved by the Board of Directors of the Association; provided that if the cost of the work therefor shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner elsewhere required for capital improvements to the Common Elements.
- (c) Adjustment of Shares. The shares in the Common Elements, Common Expenses and Common Surplus appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the shares in the Common Elements, Common Expenses and Common Surplus among the reduced number of Unit Owners (and among reduced Units). This shall be effected by restating the shares of continuing Unit Owners as follows:
- (i) add the total of all percentages of all Units of continuing Owners prior to this adjustment, but after any adjustments made necessary by Section 15.4(c) hereof (the "Percentage Balance"); and
 - (ii) divide the percentage of each Unit of a continuing Owner prior to this adjustment, but after any adjustments made necessary by Section 15.4(c) hereof, by the Percentage Balance.

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

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

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

15.6 Taking of Common Elements. Awards for the taking of Common Elements shall be used to render the remaining portion of the Common Elements usable in the manner approved by the Board of Directors of the Association; provided, that if the cost of such work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner 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 are 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.

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

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

16.1 Occupancy. Each Unit shall be used as a single family residence only, except as otherwise herein expressly provided. As used herein, "single family" or words of similar import shall be deemed to include a spouse, children, parents, brothers, sisters, grandchildren, or up to one other natural person related to the Unit Owner by blood or living with the Unit Owner as a single housekeeping unit.

Under no circumstances may more than one family reside in a Unit at one time.

In no event shall occupancy (except for temporary occupancy by visiting guests) exceed two (2) persons for each bedroom contained in a Unit, including convertible portions of any Units. The term "temporary occupancy" as used herein shall mean occupancy of the Unit not to exceed twenty (20) consecutive days. Under no circumstances may any Unit be used for any business purpose.

A guest shall be considered any occupant who is not a Unit Owner or an approved tenant. There shall be no limitation on guest occupancy provided the guest occupies the Unit with the Owner or the approved tenant, except as provided herein. However, any guest who occupies a Unit in excess of thirty (30) days cumulatively in any calendar year, whether with or without the Owner or approved tenant in residence, shall be subject to screening as a tenant. Guest occupancy in the absence of the Unit Owner by members of the Unit Owner's immediate family (which includes spouses, parents and grandparents, children and grandchildren) shall not be restricted, except as to the occupancy and age restrictions set forth herein. Guest occupancy in the absence of the Unit Owner by all other persons shall be limited to thirty (30) days cumulatively in a calendar year for all such guest occupancy. Prior to any occupancy of the Unit by any guest in the absence of the Owner, the Owner must provide written notice to the Association of the name or names of the intended guests, the anticipated date of arrival, and the anticipated date of departure.

- 16.2 Pets. No pets or animals of any kind may be kept or brought on any portion of the Condominium Property at any time. Any owner that has a pet on the property as of the date of this amendment, which pet has been approved and permitted by the Association, may keep that pet on the following conditions: 1) the owner must verify in writing to the Association within thirty (30) days from the effective date of this amendment that the pet is on the property and has been on the property since before the amendment was effective; 2) the notice must include a description of the pet, including the type of pet, its age, weight and a brief physical description; 3) no such pet permitted by this clause may be replaced upon its demise or departure from the premises and no new pets may be brought on the premises after the effective date of this amendment; and 4) any such pet which becomes a nuisance shall be subject to removal.
- 16.3 Use of Common Elements. The Common Elements shall be used only for furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units.
- 16.4 Nuisances. No nuisances (as defined by the Association) shall be allowed on the Condominium Property, nor shall any use or practice be allowed which is a source of annoyance to residents or occupants of Units or which interferes with the peaceful possession or proper use of the Condominium Property by its residents or occupants.
- 16.5 No Improper Uses. No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Condominium Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this subsection.
- 16.6 Leases. No portion of a Unit may be rented. A Unit shall not be leased or rented without the prior written approval of the Association, as provided in Section 17 hereof, which approval shall not be unreasonably withheld, provided, however, that a Unit Owner shall be prohibited from leasing his Unit more than once in a twelve (12) month period, measured from the commencement of the most recent lease of the Unit, or for a term of not less than four (4) months or more than twelve (12) months. The Association shall have the right to require that a substantially uniform form of lease be used. The lease shall include a provision granting the Association authority and standing to evict any tenant of a Unit Owner who is in breach or violation of this Declaration or the rules and regulations of the Association. In the event the Association approves a rental or lease, such approval of a lease or rental shall not release the Unit Owner from any obligation under this Declaration, and the lessee shall have the right to use the facilities and Common Elements to the exclusion of the Unit Owner unless the lessee waives such rights in writing. Regardless of whether or not expressed in the applicable lease, if any, all Unit Owners shall be jointly and severally liable with their tenants to the Association for any amount which is required by the Association to effect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant or for the acts and

omissions of the tenant(s) or occupant(s) (whether or not subject to a lease) which constitute a violation of, or non-compliance with, the provisions of this Declaration and of any and all rules and regulations of the Association. All leases shall comply with and be subject to the provisions of this Declaration, the By-Laws, and the Act and the provisions of same shall be deemed expressly incorporated into any lease of a Unit. Subleases are prohibited.

16.7 Parking. The following guidelines shall apply with regard to permitted and prohibited vehicles on the condominium property (including, without limitation, any assigned or unassigned parking spaces):

(a) ONLY passenger automobiles and station wagons (including sport utility vehicles and mini-vans which must have windows on all body panels) may park on the condominium property. The only exceptions are those exceptions noted in sub-paragraph b below.

(b) Without limiting the general provisions set forth above, the following types of vehicles WILL NOT be permitted to park on the condominium property, except as provided by sub-paragraph III below:

- (i) Commercial vehicles of any type, including, without limitation, any vehicle showing or displaying any commercial, charitable or institutional (e.g., church or school) markings, signs, displays or otherwise indicating a commercial or other non-personal use or used for commercial purposes;
- (ii) Vans, other than mini-vans as described above.
- (iii) Motorcycles or other two-wheeled motorized vehicles;
- (iv) Limousines or "stretch" limousines;
- (v) Trucks of any type, including, but not limited to pick-up trucks of whatever nature, and any vehicle with a passenger cab and cargo bed, whether covered or uncovered, whether with a bed top or without; the term cargo bed being specifically intended to refer to those vehicles with a bed exposed to the elements or covered by a top (as an after-market device) which are designed, manufactured marketed or sold primarily for the purpose of carrying cargo rather than passengers. This provision does not apply to sport utility vehicles used solely for private passenger use.
- (vi) Agricultural vehicles;
- (vii) Dune buggies;
- (viii) Any trailer or other device transportable by vehicular towing;
- (ix) Semis, tractors or tractor trailers;
- (x) Buses;
- (xi) Travel trailers;
- (xii) Boats and boat trailers with or without boats;

- (xiii) Vehicles which are not fully mechanically operable or not currently licensed for use;
 - (xiv) Motorcycle delivery wagons;
 - (xv) Recreational vehicles;
 - (xvi) Mobile homes or mobile houses;
 - (xvii) Truck mounted campers attached or detached from the truck chassis;
 - (xviii) Motor homes or motor houses;
 - (xix) Motor vehicles not having any bodies whatever, or incomplete buggies;
 - (xx) Swamp buggies;
 - (xxi) Passenger automobiles that have been converted for racing.
- (c) While engaged in making deliveries or service calls, or if being utilized by Association employees, trucks and other commercial vehicles may be parked in designated areas for short periods, but not overnight.
- (d) All vehicles parked on the property contrary to the provisions contained herein shall be subject to being towed in accordance with Section 715.07, Florida Statutes, as amended from time to time, at the expense of the owner of the vehicle. Towing shall not be the exclusive remedy of the Association.
- (e) Notwithstanding anything herein to the contrary, but subject to subparagraph (c) above, no vehicle or other device shall be permitted to park on condominium property for other than delivery or service call purposes, if its dimensions exceed the dimensions of the parking space assigned or designated.

16.8 Housing For Older Persons.

Whisper Walk Section C Condominium is a residential condominium designed and intended as housing for older persons. Accordingly, the members of the Association wish to operate as housing for older persons as that term is used and defined in the applicable Federal and State Fair Housing laws. Accordingly, all Units in the condominium shall be held for occupancy by persons fifty-five (55) years of age or older, subject to the exceptions noted below, and no permanent occupancy by persons under the age of eighteen (18) shall be permitted. The term occupancy shall have the meaning ascribed in the applicable Federal and State Fair Housing laws and the rules promulgated pursuant thereto. No occupancy shall be permitted by individuals between the ages of eighteen (18) and fifty-five (55) unless the Unit is also occupied by at least one person fifty-five (55) years of age or older. Accordingly, the Board shall not approve any proposed transfer to persons who do not intend to hold the Unit out for occupancy by persons fifty-five (55) years of age and older or to persons who intend to occupy the Unit without at least one occupant over the age of fifty-five (55). The Board

may permit sales where the title holders will not include at least one person fifty-five (55) years of age or older on the condition that all purchasers verify in writing that they intend to hold the apartment out for occupancy by persons fifty-five (55) years of age or older or intend to occupy the Unit with at least one person fifty-five (55) years of age or older in occupancy with them at all times. The only exceptions where occupancy by persons between the ages of eighteen (18) and fifty-five (55) will be permitted are those which the Association is required by law to permit, the surviving spouse of a deceased member where the deceased member was over fifty-five (55) years of age, but the surviving spouse is between eighteen (18) years of age and fifty-five (55) years of age, and the surviving children of a deceased member where the deceased member was over fifty-five (55) years of age, but the surviving children are between eighteen (18) years of age and fifty-five (55) years of age. The foregoing exceptions will only be permitted if the resulting occupancy levels will remain at at least eighty (80%) percent as provided below or as required by applicable law.

The Board of Directors shall establish policies and procedures for the purpose of assuring that the Board implements the intent of this provision in connection with the screening of sales, leases and all other transfers pursuant to this Declaration and for the purpose of assuring that at least eighty (80%) percent of the occupied Units in the condominium are occupied by at least one person fifty-five (55) years of age or older. The Board of Directors shall take all reasonable steps to insure that the condominium's status as housing for older persons is preserved and protected. The Board shall also conduct a census to verify the age of the occupants of all occupied apartments and shall obtain reliable documentation of age, such as a driver's license, birth certificate, passport, immigration card, military identification, other state, local, national or international official documents containing a birth date of comparable reliability or a certification in a lease, application, affidavit or other document asserting that at least one person in the apartment is fifty-five (55) years of age or older. The Board shall conduct such a census after the enactment of this amendment and shall update the census at least once every two years thereafter or as often as required by applicable law.

17. **CONVEYANCES, SALES, RENTALS, LEASES AND TRANSFERS.** In order to insure the community of congenial residents and thus protect the value of the Units, the sale, leasing, rental, and transfer of Units by any Owner shall be subject to the following provisions:

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

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

- (e) Any other transfer of title to or possession of a unit.
- (f) All transfers subject to approval shall require, as a condition of approval, the payment to the Association of a transfer fee not to exceed the maximum amount permitted by the Condominium Act, as same may be amended from time to time.
- (g) All transfers by lease may be conditioned upon the posting of a security deposit not to exceed the maximum amount permitted by the Condominium Act, as same may be amended from time to time.
- (h) The foregoing requirements shall not apply to transfers by sale, gift, devise or inheritance to members of the transferor's immediate family, defined as the transferor's spouse, parents, grandparents, children or grandchildren.

17.2 Notice to Association. Prior to approving any transfer subject to approval hereunder, the Association shall be entitled to the following information:

- (a) Written notice of the transferor's intent to make the transfer with a copy of the documentation evidencing the intended transfer, including, but not limited to, a copy of the contract for sale in the case of a sale, a copy of the proposed lease in the case of a lease, a copy of the transferor's Last Will and Testament in the event of a transfer by devise, and a copy of any other documentation pertaining to a proposed transfer subject to approval hereunder which the Association may reasonably require, completed applications on forms prescribed by the Association, a personal interview with the proposed transferee(s) and any other intended occupants of the unit, and such other and further information about the intended transferees or occupants as the Association may reasonably require.

17.3 Association's Election. Within thirty (30) days of receipt of the last of the information required pursuant to Section 17.2(a) above, the Association must either approve or disapprove the transfer. Failure on the part of the Association to respond within said thirty (30) day period shall constitute automatic approval for the proposed transfer.

- (a) Approval. In the event the Association approves the transfer, in the case of a lease, the Association shall notify the transferor and transferee of its approval in writing. In the case of all other transfers, the Association shall deliver to the transferor or the transferor's designee an executed certificate of approval, approving the transfer, executed by an authorized representative of the Association.
- (b) Disapproval. In the event the Board of Directors disapproves a proposed sale, unless good cause exists, as defined below, the Association must, within thirty (30) days of receipt of the last of the information provided pursuant to Section 17.2 hereof, provide the owner with an executed contract from the Association or another person or persons acceptable to the Association, which contract must provide for the purchase of the Unit on the same terms as were set forth in the original proposed contract for sale, which contract must provide for a closing date within thirty (30) days from the date it is delivered to the owner by the Association. If the conveyance or transfer was a gift, devise or other transfer without consideration, the purchase price shall be determined by an appraiser selected by and

at the expense of the substitute purchaser. If the Unit Owner does not agree with the appraisal, the owner may select and pay for another appraisal and the purchase price shall be the average of the two appraisals. If the Association does not respond to the application within thirty (30) days, as set forth above, or the substitute purchaser provided by the Association does not close within thirty (30) days, as set forth above, the original transaction shall be deemed approved and the Unit Owner may proceed to closing and shall be entitled to a Certificate of Approval as described in numbered paragraph (a) above.

- (i) If good cause exists for the Association to disapprove a proposed sale, conveyance or transfer, the Association shall not be obligated to purchase or provide a substitute purchaser for the Unit. Good cause shall be defined to include the following:
 - (1) The applicant fails to qualify for membership in the Association, including, but not limited to, those applicants who fail to qualify for membership because of the restrictions on occupancy or ownership set forth in this Declaration, or;
 - (2) The person seeking approval (which shall include all proposed occupants) has been convicted of a crime involving theft, violence to persons or property, dishonesty or moral turpitude or possession or sale of illegal substances or other contraband;
 - (3) The person seeking approval intends to purchase the Unit without paying at least twenty percent (20%) of the purchase price, excluding closing costs, in cash.
 - (4) The Owner allows a prospective owner to take possession of the Unit prior to approval by the Association as provided for herein.
 - (5) The person seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in this condominium as a tenant, guest, owner or occupant of a Unit;
 - (6) The person seeking approval failed to provide the information, fees or appearance required pursuant hereto.
- (c) Lease. In the event the Board of Directors disapproves a lease, the lease shall not be made and the proposed tenant shall not take occupancy of the Unit. No lease will be approved unless and until all financial obligations to the Association are brought current or are satisfied, as the case may be.
- (d) Limitations on Ownership. No Unit may be conveyed or leased to a corporation, partnership or other entity of any kind except for trusts formed for the purpose of estate or financial planning. The Association as an entity is not limited by the foregoing in connection

with the acquisition of apartments at foreclosure sales, through deeds in lieu of foreclosure, or through the exercise of its right of first refusal as set forth in this Declaration. Notwithstanding the provisions above regarding the acquisition of title by an entity, any entity acquiring title to an apartment through the foreclosure of a mortgage or other lien may hold title, but any person taking occupancy of the apartment while title is held by such entity shall be subject to the requirements of this section applicable to leases, regardless of whether the occupants are leasing the apartment or occupying the apartment by, through or on behalf of the entity. Title to a Unit may not be held in the name of more than three (3) persons.

- 17.4 Institutional First Mortgagee. An Institutional First Mortgagee holding a mortgage on a Condominium parcel, upon becoming the owner of a Condominium parcel through foreclosure, or by deed in lieu of foreclosure, or whomsoever shall become the acquirer of title at the foreclosure sale of an Institutional First Mortgagee or the lien for common expenses, shall have the unqualified right to sell, lease or otherwise transfer said unit, including the fee ownership thereof, and/or to mortgage said parcel, without prior offer to the Board of Directors of the Association, and without the prior approval of the said Board of Directors. The provisions of Sections 17.1, 17.2 and 17.3 hereof shall be inapplicable to such Institutional First Mortgagee.

18.

COMPLIANCE AND DEFAULT. Each Unit Owner and every occupant of a Unit and the Association shall be governed by and shall comply with the terms of this Declaration of Condominium and all exhibits annexed hereto, and the rules and regulations adopted pursuant to those documents, as the same may be amended from time to time. The Association (and Unit Owners, if appropriate) shall be entitled to the following relief in addition to the remedies provided by the Act:

- 18.1 Negligence. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees, but only to the extent such expense is not met by the proceeds of insurance actually collected in respect of such negligence by the Association.

- 18.2 Compliance. In the event a Unit Owner or occupant fails to maintain a Unit or fails to cause such Unit to be maintained, or fails to observe and perform all of the provisions of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required, the Association shall have the right to proceed in a court of equity to require performance and/or compliance, to impose any applicable fines, to sue in a court of law for damages, to make a special charge against the Unit Owner and the Unit for the sums necessary to do whatever work is required to put the Unit Owner or Unit in compliance to hire an attorney to make a charge against the Unit Owner and Unit for the costs of such reasonable attorneys' fees incurred in requiring performance and/or compliance of the Unit Owner. Such charge, together with costs and attorneys' fees, shall be secured by a lien against the condominium parcel, enforceable in the same manner as Assessments levied under Article 12 hereof, including by recordation and foreclosure of a claim of lien.

- 18.3 Fines. In the event a Unit Owner or anyone for whom Unit Owner is responsible fails to comply with a provision of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and

regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required, the Association shall have the right to impose a fine against the Unit Owner and the Unit. The amount of any fine shall be determined by the Board of Directors of the Association, but in any event shall not exceed any maximum amount permitted by the Condominium Act, as such Act may be amended from time to time. Any fine shall be imposed by written notice to the Unit Owner or tenant, signed by an officer of the Association in accordance with the procedures established in the rules and regulations of the Association.

- 18.4 Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Unit Owner or the Association to comply with the requirements of the Act, this Declaration, the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (including appellate attorneys' fees).

- 18.5 No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Act, this Declaration, the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, shall not constitute a waiver of their right to do so thereafter.

19. TERMINATION OF CONDOMINIUM. The Condominium shall continue until (i) terminated by casualty loss, condemnation or eminent domain, as more particularly provided in this Declaration, or (ii) such time as withdrawal of the Condominium Property from the provisions of the Act is authorized by a vote of Owners owning at least seventy-five (75%) percent of the Unit Owners and by all listed Institutional First Mortgagees. When the Board of Directors of the Association intends to terminate the Condominium, or dissolve the Association, the Board of Directors shall so notify the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation (the "Division") before taking any action to terminate the Condominium or the Association.

In the event such withdrawal is authorized as aforesaid, the Condominium Property shall be owned in common by the Unit Owners in the same individual shares as each Unit Owner previously owned in the Common Elements, in which event the net proceeds of sale shall be divided among all Unit Owners in proportion to their respective interests in the Common Elements, provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such net proceeds all mortgages and liens on his Unit in the order of their priority. The termination of the Condominium, as aforesaid, shall be evidenced by a certificate of the Association executed by its President and Secretary, certifying as to the basis of the termination and said certificate shall be recorded among the Public Records of Palm Beach County. Upon recordation of the termination certificate, the Association within thirty (30) business days shall notify the Division of the termination and the date the certificate was recorded, the county where the document was recorded, and the book and page number of the public records where the document was recorded, and shall provide the Division a copy of the recorded termination certificate notice certified by the clerk.

20. RESTRICTIONS AND EASEMENTS. The real property submitted to Condominium ownership herewith is subject to conditions, limitations, restrictions, dedications, reservations of record, taxes, applicable zoning ordinances now existing or which may hereafter exist, easements for Utility Service for the United States Post Office authorities, and any right of the United States of America, State

of Florida, or any governmental agency as to any submerged lands and as to any lands lying below the natural, ordinary high water line of the surrounding bodies of water, easements for ingress and egress for pedestrian and vehicular purposes, easements for Utility Service and drainage now existing or hereafter granted by the Association for the benefit of such persons as the Association designates.

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

21.

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

22.

ADDITIONAL PROVISIONS.

22.1 **Notices.** All notices to the Association required or desired hereunder or under the By-Laws of the Association shall be sent by certified mail (return receipt requested) or registered mail to the Association in care of its office at the Condominium, or to such other address as the Association may hereafter designate from time to time by notice in writing to all Unit Owners. Except as provided specifically in the Act, all notices to any Unit Owner shall be sent by first class mail to the Condominium address of such Unit Owner, or such other address as may have been designated by him from time to time, in writing, to the Association. All notices to mortgagees of Units shall be sent by first class mail to their respective addresses, or such other address as may be designated by them from time to time, in writing to the Association. All notices shall be deemed to have been given when mailed in a postage prepaid sealed wrapper, except notices of a change of address, which shall be deemed to have been given when received, or five (5) business days after proper mailing, whichever shall first occur.

22.2 **Interpretation.** The Board of Directors of the Association shall be responsible for interpreting the provisions hereof and of any of the Exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. An opinion of legal counsel that any interpretation

adopted by the Association is not unreasonable shall conclusively establish the validity of such interpretation.

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

22.4 Exhibits. There is hereby incorporated in this Declaration all materials contained in the Exhibits annexed hereto, except that as to such Exhibits, any conflicting provisions set forth therein as to their amendment, modification, enforcement and other matters shall control over those hereof.

22.5 Signature of President and Secretary. Wherever the signature of the President of the Association is required hereunder, the signature of a vice-president may be substituted therefor, and wherever the signature of the Secretary of the Association is required hereunder, the signature of an assistant secretary may be substituted therefor, provided that the same person may not execute any single instrument on behalf of the Association in two separate capacities.

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

22.7 Severability. The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration, the Exhibits annexed hereto, or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

22.8 Waiver. No provisions contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce the same, without regard to the number of violations or breaches which may occur.

22.9 Ratification. Each Unit Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law or otherwise), and each occupant of a Unit, by reason of his occupancy, shall be deemed to have acknowledged and agreed that all of the provisions of this Declaration, and the Articles and By-Laws of the Association, and applicable rules and regulations, are fair and reasonable in all material respects.

22.14 Gender. Plurality. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.

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

23. RIGHTS OF MORTGAGEES.

23.1 Right to Notice. The Association shall make available for inspection upon request, during normal business hours or under reasonable circumstances, the Section C Documents and the books, records and financial statements of the Association to Section C Owners and the holders, insurers or guarantors of any first mortgagees encumbering Units within Section C. In addition, evidence of insurance shall, upon written request to the Association, be issued to a Section C Owner and any mortgagee holding a mortgage encumbering a Unit within Section C.

23.2 Rights of Listed Mortgagee(s). Upon written request to the Association, identifying the name and address of the holder, insurer, guarantor (such holder, insurer or guarantor is herein referred to as a "Listed Mortgagee") of a mortgage encumbering a Unit within Section C and the legal description of such Unit, the Association shall provide such Listed Mortgagee with timely written notice of the following:

- (a) Any condemnation, loss or casualty loss which affects any material portion of Section C, the Section Property, the Section C Recreation Area or any Unit in Section C encumbered by a first mortgage held, insured or guaranteed by such Listed Mortgagee;
- (b) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (c) Any proposed action which would require the consent of mortgagees holding a mortgage encumbering a Unit within Section C; and
- (d) Any failure by a Section C Owner owning a Unit encumbered by a mortgage held, insured or guaranteed by such Listed Mortgagee to perform his obligations under the Section C Documents, including, but not limited to, any delinquency in the payment of Assessments for Association Expenses or Recreation Expenses or Special Assessments, or any other charge owed to the Association by said Section C Owner where such failure or delinquency has continued for a period of sixty (60) days.

23.3 Right of Listed Mortgagee to Receive Financial Statement. Any Listed Mortgagee shall, upon written request made to the Association, be entitled to financial statements for the Association for the prior fiscal year free of charge and the same shall be furnished within a reasonable time following such request.

EXHIBIT B
AMENDED AND RESTATED
BY-LAWS
OF
WHISPER WALK SECTION C ASSOCIATION, INC.
A FLORIDA NOT-FOR-PROFIT CORPORATION

NOTE: This document replaces the By-Laws attached as Exhibit C to the Declaration of Condominium executed by Developer on August 24, 1988, recorded on August 25, 1988, at Official Records Book 5786, Page 245, of the Public Records of Palm Beach County (hereinafter the "Original Declaration") except that all Exhibits to the Original Declaration which are not otherwise referenced herein or attached hereto remain intact and unchanged and are hereby incorporated by reference herein as if attached hereto and made a part hereof.

ARTICLE 1

GENERAL

1.1 The Name. The name of the Corporation shall be WHISPER WALK SECTION C ASSOCIATION, INC., hereinafter referred to as the "Association."

1.2 Principal Office. The principal office of the Corporation shall be at 8050 Springtree Road, Boca Raton, Florida 33496, or at such other place as may be subsequently designated by the Board of Directors.

1.3 Identity. In addition to the within By-Laws being the By-Laws of the Association, these by-laws are established pursuant to the Florida Condominium Act, Chapter 718, Florida Statutes ("Act") for the purpose of administering, operating and managing Whisper Walk Section C Condominium (the "Condominium").

1.4 Definition. As used herein, the term "Corporation" shall be the equivalent of "Association," and all other words as used herein shall have the same definitions as attributed to them in the Declaration of Condominium of Whisper Walk Section C Condominium, A Condominium ("Declaration"). Any terms not defined in the Declaration shall have those definitions established by the Act.

ARTICLE 2

MEMBERSHIP AND VOTING PROVISIONS

2.1 Membership.

Membership in this Association shall be limited to Unit Owners in the Condominium. Transfer of Unit ownership, either voluntarily or by operation of law, shall automatically terminate membership, and the transferee shall automatically become a Member of this Association. If Unit ownership is vested in more than one person, all of the persons owning a Unit shall be authorized to attend meetings, etc.; but, as hereinafter indicated, the vote of a Unit shall be cast by the Voting Member. If Unit ownership is vested in a trust or, to the extent permitted by the Declaration, any other entity, the entity may designate a representative or an individual officer or employee as its Voting Member.

2.2 Voting. On all matters upon which the membership shall be entitled to vote, the vote for each Unit shall be as specified in the Declaration. Said votes shall be exercised or cast in the manner provided by the Declaration and these By-laws. Any

person or entity owning more than one (1) Unit shall be entitled to the cumulative total of votes allocated to Units owned. The vote of a Unit shall not be divisible. Unless otherwise set forth herein or in the Act, matters shall be voted on by the membership of the Association and shall be determined by a vote of a majority of the voting interests ("Voting Interests") present and voting, in person or by proxy, at any meeting at which a quorum is established, or by written agreement.

2.3 **Quorum.** Unless otherwise provided in these By-laws, the presence in person or by proxy of a majority of the Voting Interests of the Association. A quorum is not required for elections pursuant to Section 4.2 hereof.

2.4 **Voting.** Votes may be cast in person, by written agreement or by proxy. All proxies shall be in writing, signed by the person entitled to vote, shall be filed with the Secretary of the Association prior to, or at, the meeting at which they are to be used, or prior to or at any lawful adjournment thereof, and shall be effective only for the specific meeting for which originally given and any lawful adjournment thereof. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the Unit Owner executing it.

2.5 **Designation of Voting Member.** If a Unit is owned by one person, his or her right to vote shall be established by the record title to the Unit. If a Unit is owned by more than one person, the person entitled to cast the Unit's vote shall be designated in a certificate to be filed with the Secretary, signed by all of the record Unit Owners of the Unit. If a Unit is owned by a trust or, to the extent permitted by the Declaration, another entity, it shall designate the representative, officer, employee or agent entitled to cast the Unit's vote by executing a certificate to be filed with the Secretary of the Association, signed by its authorized representative. The person designated in any such certificate shall be known as the Voting Member. If, for a Unit owned by more than one person, a trust or other permitted entity, such certificate is not on file with the Secretary of the Association, the vote of the Unit shall not be counted in determining the presence of a quorum, or for any purpose requiring the approval of the person entitled to cast the vote for the Unit. No such certificate shall be required if said Unit is owned by a husband and wife. Such certificate shall be valid until revoked or superseded by a subsequent certificate, or until a change occurs in the ownership of the Unit.

ARTICLE 3

MEMBERSHIP MEETINGS

3.1 **Place.** All meetings of Members shall be held at the principal office of the Association or at such other place and at such time as shall be designated by the Board and stated in the notice of meeting.

3.2 **Notices.** It shall be the duty of the Secretary to send by regular mail or hand delivery a notice of each annual or special meeting to each Unit Owner and to post a copy of said notice in a conspicuous place on the property at least fourteen (14) continuous days but not more than sixty (60) days prior to such meeting. Notice of any meeting shall list the time, place and purpose thereof and shall incorporate an identification of agenda items. All notices shall be mailed to the address last furnished to the Association by the Unit Owner as it appears on the books of the Association or hand delivered to each Unit Owner. Proof of posting, delivery or mailing of the notice (if required) shall be given by the affidavit of the person serving the notice, or a United States Postal Service Certificate of mailing, shall be included in the official records of the Association affirming that the notice was mailed or hand delivered in accordance with Florida law. Notice of specific meetings may be waived in writing before or after the meeting.

3.3 **Annual Meeting.** The annual meeting for the purpose of electing directors and transacting any other authorized business shall be held during the month of January at such date and time as shall be selected by the Board of Directors. At the annual

meeting, the Members shall elect a Board by plurality vote (cumulative voting prohibited), and shall transact such other business as may be properly brought before the meeting.

3.4 **Special Meeting.** Special meetings of the Members for any purpose, unless otherwise prescribed by statute, may be called by the President, or shall be called by the President or Secretary at the request, in writing, of a majority of the Board of Directors or at the request, in writing, of voting Members representing one-third (1/3) of the total voting interests in the Association. Such requests shall state the purpose of the proposed meeting. Business transacted at all special meetings shall be confined to the subjects stated in the notice of meeting.

3.5 **Action by Members Without a Meeting.** Notwithstanding anything herein to the contrary, any action required or permitted to be taken at any annual or special meeting of Members may be taken by written agreement without a meeting, signed by the Members (or persons authorized to cast the vote of any such Members as elsewhere herein set forth), so long as at least a quorum of the members participates and so long as the number of votes required to authorize or approve such action is obtained. Voting by written agreement shall be done in accordance with the provisions of the applicable Statute, as same may be amended from time to time.

3.6 **Adjourned Meeting.** If any meeting of Members cannot be organized because a quorum is not present, either in person or by proxy, the meeting shall be adjourned from time to time until a quorum is present. If any agenda item at a meeting of the members cannot be approved because approval of more than a quorum of the members is required but such required percentage is not present or is not achieved, the meeting may be adjourned from time to time until the requisite vote is achieved.

3.7 **Order of Business.** The order of business at annual Members' meetings and as far as practical at other Members' meetings, shall be:

- A. Calling to order by President or Chairman;
- B. Appointment of chairman of the meeting by the President or, in his absence, by a majority of the Board of Directors. The chairman may be the attorney for the Association or a representative of the Association's management company who will conduct the meeting without vote;
- C. Appointment of inspectors of election;
- D. Election of directors;
- E. Calling of the roll and certifying of proxies;
- F. Proof of notice of the meeting or waiver of notice;
- G. Reading and disposal of any unapproved minutes;
- H. Reports of officers;
- I. Reports of committees;
- J. Unfinished business;
- K. New business;
- L. Adjournment.

ARTICLE 4

DIRECTORS

4.1 **Membership.** The affairs of the Association shall be managed by a Board of seven (7) directors. All directors shall be Members or spouses of Members of the Association. Only one person representing the Owner or Owners of the Unit shall be eligible to be a candidate for or serve on the Board of Directors at any given time.

4.2 **Election of Directors.** Election of directors shall be conducted in the following manner:

- A. Election of directors shall be held at the annual Members' meeting.
- B. The Board of Directors shall be elected by written ballot or voting machine. Proxies shall not be used in the election of the Board of Directors, either in general elections or elections to fill vacancies caused by recall, resignation, or otherwise. No Unit Owner shall permit any other person to vote his or her ballot, and any such ballots improperly cast shall be deemed invalid. Elections shall be decided by a plurality of those ballots cast. Cumulative voting is prohibited. There shall be no quorum requirement; provided, however, at least twenty percent (20%) of the eligible votes must cast a ballot in order to have a valid election.
- C. Written notice of the scheduled election shall be mailed to each Member at his last known address as it appears on the books of the Association. The first notice of the date of the election shall be mailed to each Member not less than sixty (60) days before the scheduled election. The first notice must contain the name and correct mailing address of the Association.
- D. Any Unit Owner or other eligible person desiring to be a candidate for the Board shall give written notice to the Association not less than forty (40) days before the scheduled election. Written notice shall be effective when received by the Association.
- E. Upon the timely request of the candidate as set forth in this subparagraph, the Association shall include, with the second notice of election described in paragraph F below, a copy of an information sheet which may describe the candidate's background, education and qualifications as well as any other factors deemed relevant by the candidate. The information sheet shall not exceed one side of a sheet which shall be no larger than eight and one-half (8-1/2) by eleven (11) inches. Any candidate desiring the Association to mail or personally deliver copies of an information sheet to the eligible voters must furnish the information sheet to the Association not less than 35 days before the election. The Association is not liable for the contents of the information sheets prepared by the candidates. The Association shall not edit, alter or otherwise modify the content of the information sheet. The original copy provided by the candidate shall become part of the official records of the Association.

F. Not less than fourteen (14) days before the scheduled election, the Association shall mail or deliver to the eligible voters at the addresses listed in the official records of the Association a second notice of the election, together with a ballot and any information sheets timely submitted by the candidates. Each Unit shall receive one (1) ballot. The second notice and accompanying documents shall not contain any communication by the Board which endorses, disapproves or otherwise comments on any candidate. Accompanying the ballot shall be an outer envelope addressed to the person or entity authorized to receive the ballots and a smaller inner envelope in which the ballot shall be placed. The exterior of the outer envelope shall indicate the name of the voter and the Unit or Unit numbers being voted and shall contain a signature space for the voter. Once the ballot is completed, the voter shall place the completed ballot in the inner smaller envelope and seal that envelope. The inner envelope shall then be placed within the larger outer envelope and the outer envelope shall then be sealed. Each inner envelope shall contain only one ballot, but if a person owns more than one unit and is, therefore, entitled to cast more than one ballot, the separate inner envelopes required may be enclosed within a single outer envelope. The voter shall sign the exterior of the outer

envelope in the space provided for his or her signature. The outer envelope shall either be mailed or hand delivered to the Association. Upon receipt by the Association, no ballot may be rescinded or changed.

G. The written ballot shall indicate in alphabetical order by surname, each and every Unit Owner or other eligible person who desires to be a candidate for the Board and who gave written notice to the Association not less than forty (40) days before a scheduled election, unless such person has, prior to the mailing of the ballot, withdrawn his candidacy in writing. No ballot shall indicate which candidates are incumbents on the Board. No write-in candidates shall be permitted. No ballot shall contain a section providing for the signature of a voter. Envelopes containing ballots received by the Association shall be retained and collected by the Association and shall not be opened except in the manner hereinafter provided and in accordance with the Florida Condominium Act.

H. Any envelopes containing ballots not prevalidated as provided in subsection 4.2(l) below shall be collected by the Association and shall be transported to the location of the election. An impartial committee of persons appointed by the Board shall validate and process the ballots. The Association shall have available additional blank ballots at the meeting for distribution to the eligible voters who have not cast their votes. Each ballot distributed at the meeting shall be placed in an inner and outer envelope as provided in subsection 4.2(F) hereof. At the meeting, as the first order of business, ballots not yet cast shall be collected. Next, the signatures and Unit identifications on the outer envelopes shall be checked against the list of qualified voters, unless previously verified as set forth in subsection 4.2(l) below. Any exterior envelope not signed by the eligible voter shall be marked "disregarded" and any ballots contained therein shall not be counted. The voters shall be checked off on the list as having voted. Then, in the presence of any Unit Owners in attendance, and regardless of whether a quorum is present, all inner envelopes shall be first removed from the outer envelopes and shall be placed in a receptacle. Upon the commencement of the opening of the outer envelopes, the polls shall be closed, and no more ballots shall be accepted. Inner envelopes shall then be opened and the ballots shall be removed and counted in the presence of any Unit Owners. Any inner envelopes containing more than one ballot shall be marked "disregarded" and any ballots contained therein shall not be counted. All envelopes and ballots, whether disregarded or not, shall be retained as part of the official records of the Association for such time period as may be required by the Act. Board members whose terms expire and who are not reelected shall relinquish their Board positions, and those positions shall be assumed by the duly elected Board members.

I. The Association may verify outer envelope information in advance of the meeting by following the procedure set forth in Section 718.112(2)(d)(3), Florida Statutes, and Section 61B-23.0021(10), Florida Administrative Code.

J. The Board shall not create or appoint any committee for the purpose of nominating a candidate or candidates for election to the Board. However, the Board may create or appoint a search committee which shall not have the authority to nominate any candidate, but may encourage eligible and qualified persons to become candidates for the Board.

K. The provisions of Paragraphs (B) through (J) of this Section 4.2, are in accordance with Section 718.112(2)(d)(3), Florida Statutes, and Section 61B-23.0021, Florida Administrative Code. In the event such Statute or Code is repealed, the Board shall determine the procedure for elections of directors. In the event said Statute or Code is amended, these By-laws shall be deemed automatically amended to comply with any such changes.

L. The provisions of this subsection 4.2 may be amended by an affirmative vote of a majority of the total Voting Interests to provide for different voting and election procedures.

M. Notwithstanding anything contained herein to the contrary, an election is not necessary unless there are more eligible candidates than vacancies. In

such case, not later than the date of the scheduled election, the Association shall call and hold a meeting of the membership to announce the names of the new Board members, or shall notify the Unit Owners that one or more Board member positions remain unfilled, as appropriate under the circumstances. In the alternative, the announcement may be made at the annual meeting.

N. If the office of any director becomes vacant by reason of death, resignation, retirement, disqualification, or otherwise, a majority of the remaining directors, though less than a quorum, shall choose a successor who shall hold office for the balance of the unexpired term of office. The election held for the purpose of filling said vacancy may be held at any regular or special meeting of the Board.

4.3 **Organizational Meeting.** The organizational meeting of a newly elected Board shall be held after their selection within ten (10) days of their election, at such place and time as shall be fixed by the directors at the meeting at which they were elected. Notice of such organizational meeting; which notice specifically incorporates an identification of agenda items, shall be posted conspicuously on the Condominium property at least 48 continuous hours preceding the meeting, except in an emergency.

4.4 **Term.** Vacancies on the Board caused by the expiration of a director's term shall be filled by electing new Board members. The term of each director's service shall be for two (2) years and subsequently until his successor is duly elected and qualified, or until he or she is removed in the manner elsewhere provided. The directors shall serve staggered terms, with four (4) directors being elected in even numbered years and three (3) directors being elected in odd numbered years. To implement staggered terms, at the first contested election after the effective date of this amendment, the three (3) or four (4) candidates with the highest number of votes, depending upon whether it is an even or odd numbered year, shall serve a two (2) year term, and the remaining persons elected to the Board shall serve a one (1) year term. If there is not a contested election at the first annual meeting after the effective date of this amendment, the seven (7) persons seated on the Board shall decide among themselves who shall serve two (2) years and who will serve one (1) year in accordance with these provisions or the implementation of staggered terms will be delayed until the next contested election and all Board members will continue to serve one (1) year terms until staggered terms are implemented.

4.5 **Recall.** Any member of the Board may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all Unit Owners. A special meeting of the Unit Owners to recall a member or members of the Board may be called by ten percent (10%) of the Unit Owners giving notice of the meeting as required for a meeting of Unit Owners, and the notice shall state the purpose of the meeting. The recall of a director shall be further governed by the applicable provisions of the Act and the Florida Administrative Code, as same may be amended from time to time.

4.6 **Regular Meetings.** Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the directors. Notice of regular meetings shall be given to each director, personally or by mail, telephone, facsimile, electronic mail or telegraph, and shall be transmitted at least forty-eight (48) hours prior to the meeting. Regular meetings of the Board and only those committee meetings which committees have the authority to take final action on behalf of the Board or make recommendations to the Board regarding the Association budget, shall be open to all Unit Owners, and notice of such meetings shall be posted conspicuously at the Condominium forty-eight (48) continuous hours preceding the meeting for the attention of the Members of the Association except in the event of an emergency. However, written notice of any meeting at which non-emergency special assessments, or at which amendments to rules regarding Unit use will be proposed, discussed or approved, shall be mailed or delivered to the Unit Owners or posted conspicuously on the Condominium property not less than fourteen (14) days prior to the meeting. Evidence of compliance with this fourteen (14) day notice requirement shall be made by an affidavit executed by the person providing the notice and filed among the official records of the Association. Notice of any meeting where assessments against Unit Owners are to be considered for any reason shall contain a statement that assessments will be considered and the nature of any such assessments. The right of a Member to attend regular Board meetings

includes the right to speak at such meetings with reference to all designated agenda items. A Member does not have the right to speak with reference to items not specifically designated on the agenda, but the Board, in its discretion, may permit a Member to speak on such items. The Board may adopt reasonable rules governing the frequency, duration, and manner of Unit Owner statements. Any Member may tape record or videotape meetings of the Board, committee or Members; provided, however, that the equipment utilized does not produce distracting sound or light emissions and subject to any rules which may be adopted by the Board regarding placement, assemblage of audio and video equipment, prior notice to record the meeting, and distraction resulting from moving about during recording of the meeting.

4.7 Special Meetings. Special meetings of the directors may be called by the President or, in his absence, by the Vice President, and must be called by the President or Secretary at the written request of one-third (1/3) of the directors. Notice of the meeting shall be given personally or by mail, telephone, facsimile, electronic mail or telegraph, which notice shall state the time, place and purpose of the meeting, and shall be transmitted not less than forty-eight (48) hours prior to the meeting. Special meetings of the Board shall be open to all Unit Owners, and notice of a special meeting shall be posted conspicuously on the Condominium property forty-eight (48) continuous hours in advance for the attention of the Members of the Association except in the event of an emergency. However, written notice of any special meeting at which non-emergency special assessments, or at which amendments to rules regarding Unit use will be proposed, discussed or approved, shall be mailed or delivered to the Unit Owners or posted conspicuously on the Condominium property not less than fourteen (14) days prior to the meeting. Evidence of compliance with this fourteen (14) day notice requirement shall be made by an affidavit executed by the person providing the notice and filed among the official records of the Association. Notice of any meeting where assessments against Unit Owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments. The right of a Member to attend special Board meetings includes the right to speak at such meetings with reference to all designated agenda items. The provisions set forth in Section 4.6 hereof with respect to speaking at meetings and recording of meetings shall also apply to special meetings.

4.8 Waiver of Notice. Any director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the giving of notice. Attendance by any director at a meeting shall constitute a waiver of notice of such meeting, except when his attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

4.9 Quorum and Voting. A quorum at directors meetings shall consist of a majority of the entire Board. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board, except when approval by a greater number of directors is required by the Declaration, the Articles or these By-laws. Directors may not vote by proxy or secret ballot at Board meetings, except, if allowed by statute, for election of officers. A vote or abstention for each director present shall be recorded in the minutes. Any director present at a meeting of the Board who does not vote against a resolution considered at such meeting or does not abstain due to an asserted conflict of interest is deemed to have assented to the action taken by the Board at such meeting. Directors may meet by telephone conference and those attending by telephone conference may be counted toward a quorum and may vote by telephone, provided the telephone conference is conducted on a speaker so that the conversation of those Board members attending by telephone may be heard by the Board and any other person attending the meeting.

4.10 Adjourned Meetings. If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business that might have been transacted at the meeting as originally called may be transacted without further notice.

4.11 **Presiding Officer.** The presiding officer of the directors' meetings shall be the President. In the absence of the presiding officer, the directors present shall designate one of their number to preside. The President or, in his absence, a majority of the Board, may appoint, without vote, the attorney of the Association or a representative of the Association's management company to act as chairman.

4.12 **Order of Business.** The order of business at directors' meetings shall, to the extent practical, be:

- A. Calling of roll;
- B. Proof of due notice of meeting;
- C. Reading and disposal of any unapproved minutes;
- D. Reports of officers and committees;
- E. Unfinished business;
- F. New business;
- G. Adjournment.

4.13 **Compensation.** Directors shall not be entitled to any compensation for their services unless compensation is granted by a majority of the Voting Members at a membership meeting. No director, officer or manager required to be licensed under Florida Statutes Section 486.432 shall solicit, offer to accept, or accept any thing or service of a value for which consideration has not been provided for his own benefit or that of his immediate family, from any person providing or proposing to provide goods or services to the Association. Any such individual who knowingly so solicits, offers to accept, or accepts any thing or service of value is subject to a civil penalty pursuant to Florida Statutes Section 718.501(1)(d).

4.14 **Resignation.** Any Board member may resign at any time at a Board meeting or by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date. The acceptance of a resignation shall not be required to make it effective.

4.15 **Committees.** Any committee formed for the purpose of assisting in the promulgation of a budget or any committee that is delegated the authority to take final action on behalf of the Association shall conduct its meetings in accordance with the procedural requirements applicable to Board of Directors' meetings, set forth in Section 4.6 hereof. All other committee meetings shall be exempt from those requirements.

ARTICLE 5

POWERS AND DUTIES

The Board exercise all powers and duties of the Association under Chapters 617 and 718, Florida Statutes, the Declaration of Condominium, Articles of Incorporation and By-Laws, except where a vote of the members is specifically required. Such powers and duties of the Board shall include, without limitation (except as limited elsewhere herein and to the extent that same is in accordance with Chapter 718, Florida Statutes) the following:

- A. Operation, care, upkeep and maintenance of the common elements and facilities.
- B. Determination and adoption of the annual budget of common expenses required for the operation of the Condominium and the Association.

- C. Levying and collection of regular and special assessments for common expenses from Unit Owners required to pay same.
- D. Employment and dismissal of the personnel necessary for the maintenance and operation of the common elements and recreational lands.
- E. Adoption and amendment of the rules and regulations covering the details of the operation and use of Condominium property and facilities.
- F. Maintaining of bank accounts on behalf of the Association and the designation of the signatories required therefor.
- G. Purchasing, leasing or other acquiring of Units in the name of the Association, or its designee.
- H. Purchase of Units at foreclosure or other judicial sales, in the name of the Association or its designee.
- I. Selling, leasing, mortgaging, or otherwise dealing with Units acquired by, and subleasing Units leased by, the Association or its designee.
- J. Organization of Corporations to act as designees of the Association in acquiring title to Units or leasing Units by the Association.
- K. Obtaining and reviewing insurance for the Condominium property.
- L. Making repairs, additions and improvements to, or alterations of, the Condominium property, and repairs to and restoration of the Condominium property, in accordance with the provisions of the Declaration.
- M. Enforcement of the obligations of the Unit Owners, the allocation of profits and expenses, and the performance of anything and everything else necessary and proper for the sound management of the Condominium.
- N. Borrowing money on behalf of the Association when required in connection with the operation, care, upkeep and maintenance of the common elements. If any sum borrowed by the Board on behalf of the Association pursuant to authority contained in this subparagraph N is not repaid by the Association, a Unit Owner, who pays to the creditor such proportion thereof as his interest in the common elements bears to the interest of all the Unit Owners in the common elements, shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor shall have filed or shall have the right to file against the Unit Owner's Unit.
- O. Contracting for the management of the Condominium and the delegation to such manager such powers and duties of the Board as the Board may deem appropriate in the circumstances, and contracting for the management or operation of portions of the Condominium property susceptible to separate management or operation thereof, and the granting of concessions for the purpose of providing services to the Unit Owners. As an exception to the foregoing, there shall be no delegation of powers and duties wherein (1) same are contrary to the Statutes of the State of Florida and are accordingly not susceptible of being delegated; (2) those delegations and duties which may be required by the Declaration and these by-laws to have approval of the Board or of the Unit Owners; (3) the delegation is a power and duty which by its very nature is a decision or fiduciary responsibility to be made by the Board and is therefore not susceptible of delegation; and (4) same may be contrary to the Declaration or the By-Laws.

ARTICLE 6

OFFICERS

6.1 **Executive Officers.** The executive officers of the Association shall be a President, one or more Vice Presidents, Secretary, and Treasurer, all of whom shall be members of the Board and shall be elected by and serve at the pleasure of the Board. Any two of said officers may be united in one person, except that the President shall not also be the Secretary or an assistant Secretary of the Association.

6.2 **Appointive Officers.** The Board may appoint such other officers and agents as they may deem necessary, who shall hold office at the pleasure of the Board and have such authority and perform such duties as from time to time may be prescribed by said Board.

6.3 **Election.** The Board, at its first meeting after each annual meeting of general members, shall elect all officers.

6.4 **Term.** The officers of the Association shall hold office until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board may be removed at any time by the affirmative vote of a majority of the whole Board.

6.5 **The President.** The President shall be the chief executive officer of the Association. Subject to the provisions of 4.11 hereinabove, the President shall preside at all meetings of Unit Owners and of the Board, shall exercise the executive powers of the Association and have general supervision over its affairs and other officers, and shall perform all of the duties incident to the office and such other duties as may be delegated to the President from time to time by the Board.

6.6 **The Vice President.** The Vice President shall perform all of the duties of the President in the absence of the President, and such other duties as may be required by the Board.

6.7 **The Secretary.** The Secretary or assistant Secretary shall issue notices of all Board meetings and all meetings of Unit Owners, shall attend and keep the minutes of same, and shall have charge of all of the books of the Association as well as its records and papers, except those kept by the Treasurer. All minutes shall be kept in a businesslike manner and shall be available for inspection by Unit Owners and Board members at all reasonable times.

6.8 **The Treasurer.**

A. The Treasurer shall have custody of the Association's funds and securities, shall keep full and accurate accounts of the Association's receipts and disbursements, and shall deposit all monies and other valuable effects in the name of, and to the credit of, the Association in such depositories as may be designated by the Board. The books shall reflect an account for each Unit in the manner required by the Act.

B. The Treasurer shall disburse the funds of the Association as may be ordered by the Board, making proper vouchers for such disbursements, and shall render an account of all his or her transactions as the Treasurer, and of the financial condition of the Association to the Board whenever it may require it.

C. The Treasurer shall collect all assessments and shall report promptly to the Board the status of collections.

D. The Treasurer shall maintain accounting records according to good accounting practices and shall render to Unit Owners or their authorized representatives, at least annually, a written summary of the Association's fiscal activities.

6.9 **Compensation.** Officers shall not receive compensation for their services.

6.10 Resignations. Any officer may resign at any time at a Board meeting or by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date. The acceptance of a resignation shall not be required to make it effective.

ARTICLE 7

FINANCES AND ASSESSMENTS

7.1 Depositories. The funds of the Association shall be deposited in such banks and depositories as may be determined and approved by appropriate resolutions of the Board. Funds shall be withdrawn only upon checks and demands for money signed by such officer(s) or agent(s) as may be designated by the Board.

7.2 Fiscal Year. The fiscal year of the Association shall begin on the first day of January of each year; provided, however, that the Board, whenever it deems it advisable, is expressly authorized to change to a different fiscal year in accordance with the applicable provisions of the Internal Revenue Code.

7.3 Determination of Assessments.

A. The Board of Directors shall fix and determine the sum or sums necessary and adequate to assess Unit Owners for their share of the Common Expenses set forth in the budget for the Association and the Condominium. Funds for the payment of Common Expenses shall be assessed against Unit Owners as provided in the Declaration for any Condominium governed by the Association. Assessments shall be payable not less frequently than quarterly and shall be due on the first day of each quarter or month unless otherwise ordered by the Board. Assessments shall be made against Unit Owners in an amount not less than required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. Special Assessments, if necessary, shall be levied in the same manner provided in the Act and shall be payable in the manner determined by the Board. All funds due under these By-Laws and the Declaration are Common Expenses.

B. Any meeting at which a proposed annual budget of the Association or an amendment thereto will be considered by the Board (or Unit Owners as provided in subsection C of this Section 7.3) shall be open to all Unit Owners. At least fourteen (14) days prior to such a meeting, the Board shall hand deliver or mail to each Unit Owner at the address last furnished to the Association by the Unit Owner, a notice of such meeting and a copy of the proposed annual budget. An officer or manager of the Association or other person providing notice of such meeting, shall execute an affidavit evidencing compliance with such notice requirement and such affidavit shall be filed among the official records of the Association.

C. If the Board adopts in any fiscal year an annual budget which requires assessments against Unit Owners which exceed 115 percent of assessments for the preceding fiscal year, the Board shall conduct a special meeting of the Unit Owners to consider a substitute budget if the Board receives, within twenty-one (21) days after adoption of the annual budget, a written request for a special meeting from at least ten (10%) percent of all voting interests. The special meeting shall be conducted within sixty (60) days after adoption of the annual budget. At least fourteen (14) days prior to such special meeting, the Board shall hand deliver or mail to each Unit Owner at the address last furnished to the Association, a notice of the meeting. An officer or manager of the Association, or other person providing notice of such meeting shall execute an affidavit evidencing compliance with this notice requirement and such affidavit shall be filed among the official records of the Association. Unit Owners may consider and adopt a substitute budget at the special meeting. A substitute budget is adopted if approved by a majority of all voting interests. If there is not a quorum at the special meeting or a substitute budget is not adopted, the annual budget previously adopted by the Board shall take effect as scheduled.

Any determination of whether assessments exceed one hundred fifteen (115%) percent of assessments for the prior fiscal year shall exclude any authorized provision for reasonable reserves for repair or replacement of the Condominium Property, anticipated expenses of the Association which the Board does not expect to be incurred on a regular or annual basis, or assessments for betterments to the Condominium Property.

D. The proposed annual budgets of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to those expenses listed in Section 718.504(21), Florida Statutes. In addition to annual operating expenses and to the extent applicable, the budgets shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but not be limited to, roof replacement, building painting and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds the amount set forth in the Condominium Act, as same may be amended from time to time. The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The Association may adjust replacement reserve assessments annually to take into account any extension of the useful life of a reserve item caused by deferred maintenance. The foregoing reserve account requirements shall not apply to an adopted budget in which the Members of the Association have determined by a majority vote at a duly called meeting of the Association, to provide no reserves or less reserves than those described in this subparagraph.

E. When the Board determines the amount of any Assessment, the Treasurer shall mail or present to each Unit Owner a statement of Assessment specifying the amount of same and to whom and where same should be payable and sent. Upon request, the Treasurer shall give a receipt for each payment received.

7.4 **Application of Payments and Commingling of Funds.** All funds collected by the Association shall be maintained separately in the Association's name. For investment purposes only, reserve funds may be commingled with operating funds of the Association. Commingled operating and reserve funds shall be accounted for separately and a commingled account shall not, at any time, be less than the amount identified as reserve funds.

7.5 **Fidelity Bonds.** The Association shall obtain and maintain fidelity bonding of all persons who control or disburse funds of the Association in the principal sum not less than that required by the Condominium Act, as same may be amended from time to time.

7.6 **Financial Statements.** The Board shall cause to be prepared financial statements either compiled, reviewed or audited, financial statement or a report of cash receipts and expenditures in lieu of financial statements, in accordance with the Condominium Act, as amended from time to time.

ARTICLE 8

OFFICIAL RECORDS

The Association shall maintain official records as defined in the Act, as same may be amended from time to time, which shall be subject to inspection as provided in the Act, as same may be amended from time to time.

ARTICLE 9

PARLIAMENTARY RULES

Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration, the Articles or these By-laws.

ARTICLE 10

AMENDMENTS

Except as otherwise provided elsewhere, these By-laws may be amended in the following manner:

10.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

10.2 Adoption. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board or by not less than one-third (1/3) of the Voting Interests of the Association. Directors and Members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that approval is delivered to the Secretary at or prior to the meeting. The approvals must be by not less than a majority of all of the Voting Interests of the Association, either at a meeting or by written agreement.

No By-law shall be revised or amended by reference to its title or number only. Proposals to amend existing By-laws shall contain the full text of the By-laws to be amended; new words shall be inserted in the text underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of By-laws. See By-law ... for present text." Nonmaterial errors or omissions in the By-law process shall not invalidate any otherwise properly promulgated amendment.

10.3 Proviso. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Developer or Institutional Mortgagees of Units without the consent of said Institutional Mortgagees in each instance.

10.4 Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of the Declaration and By-laws, which certificate shall be executed by the President or Vice-President and attested by the Secretary or Assistant Secretary 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 Palm Beach County.

ARTICLE 11

COMPLIANCE AND DEFAULT

11.1 Violations. In the event of a violation (other than the non-payment of an assessment) by a Unit Owner of any of the provisions of the Declaration, By-laws, or the Act, the Association, by direction of its Board, shall notify the Unit Owner of said breach by written notice, transmitted to the Unit Owner at his Unit by certified mail. If such violation shall continue for a period of ten (10) days from the date of mailing of the notice, except in the event of an emergency, the Association shall have the following remedies, which shall be cumulative:

1. To commence an action in equity to enforce performance on the part of the Unit Owner; or
2. To commence an action at law to recover its damages; or
3. To commence an action in equity for such equitable relief as may be necessary under the circumstances, including injunctive relief.
4. To fine the Unit Owner, as set forth in Section 18.3 of the Declaration.

11.2 Negligence or Carelessness of an Owner. Each Unit Owner shall be liable for the expenses of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by the negligence of any member of his family, his or their guests, employees, agents, licensees, or lessees. Such liability shall include misuse, occupancy or abandonment of any Unit or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by an insurance company as to its rights of subrogation. The cost of any maintenance, repair or replacement performed pursuant to this section shall be charged to said Unit Owner as a specific assessment, enforceable in the same manner as any other assessment under Section 12 of the Declaration, including by recordation and foreclosure of a claim of lien.

11.3 Costs and Attorney's Fees. In any proceeding arising because of an alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be determined by the court.

11.4 No Waiver of Rights. The failure of the Association or an Unit Owner to enforce any right, provisions, covenant or condition which may be granted by the Condominium documents shall not constitute a waiver of the right of the Association or Unit Owner to enforce such right, provision, covenant or condition in the future.

11.5 Election of Remedies. All rights, remedies and privileges granted to the Association or a Unit Owner pursuant to any terms, provisions, covenants or conditions of the Condominium documents shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges as may be granted by the Condominium documents.

ARTICLE 12

LIABILITY SURVIVES TERMINATION OF MEMBERSHIP

The termination of membership in the Association shall not relieve or release any former Unit Owner or Member from any liability or obligation incurred under or in any way connected with the Condominium during the period of ownership and membership, or impair any rights or remedies which the Association may have against such former Unit Owner and Member, arising out of, or which is in any way connected with, such ownership and membership.

ARTICLE 13

LIMITATION OF LIABILITY

Notwithstanding the duty of the Association to maintain and repair parts of the property, the Association shall not be liable for injury or damage caused by a latent condition in the property, nor for injury or damage caused by the elements, or other Unit Owners or persons.

ARTICLE 14

LIENS

14.1 Protection of Property. All liens against a Unit, other than for permitted mortgages, taxes or special assessments, shall be satisfied or otherwise removed within thirty (30) days of the date the lien attaches. All taxes and special assessments shall be paid before becoming delinquent as provided in the Condominium documents or by law, whichever is sooner.

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

14.3 Notice of Suit. A Unit Owner shall give notice to the Association of every suit or other proceeding which will or may affect title to his Unit or any part of the property, such notice to be given within five (5) days after the Unit Owner receives notice thereof.

14.4 Effect on Judicial Sale. Failure to comply with this Article concerning liens will not affect the validity of any judicial sale.

ARTICLE 15

SEAL

The seal of the Association shall have inscribed thereon the name of the Association, the year of its organization, and the words "non-profit." Said seal may be used by causing it or a facsimile thereof to be impressed, affixed, reproduced or otherwise.

ARTICLE 16

CONFLICT

If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these By-laws and of any of the Declaration, the provisions of the Declaration shall prevail.

ARTICLE 17

CAPTIONS

The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws or the intent of any provisions hereof.

EXHIBIT A

AMENDED AND RESTATED
ARTICLES OF INCORPORATION

WHISPER WALK SECTION C ASSOCIATION, INC.

NOTE: This document replaces the Articles of Incorporation attached to the Declaration of Condominium executed by Developer on August 24, 1988, recorded on August 25, 1988, at Official Records Book 5786, Page 245, of the Public Records of Palm Beach County (hereinafter the "Original Declaration") except that all Exhibits to the Original Declaration which are not otherwise referenced herein or attached hereto remain intact and unchanged and are hereby incorporated by reference herein as if attached hereto and made a part hereof.

The undersigned Incorporator, by these Articles, does so for the purpose of forming a not-for-profit corporation pursuant to the laws of the State of Florida (Chapter 617, Florida Statutes), and hereby adopts the following Articles of Incorporation:

ARTICLE I

NAME

The name of the Corporation shall be WHISPER WALK SECTION C ASSOCIATION, INC. For convenience, the Corporation shall be referred to in this instrument as the "Association" or the "Corporation," these Articles of Incorporation as the "Articles," and the By-Laws of the Association as the "By-Laws."

ARTICLE II

PURPOSE

The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act, Chapter 718, Florida Statutes (the "Act") for the operation of that certain condominium to be known as The Barclay, a Condominium (the "Condominium").

ARTICLE III

DEFINITIONS

The terms used in these Articles shall have the same definitions and meaning as those set forth in the Declaration of Condominium ("Declaration") for the Condominium, and the By-laws of the Association, unless herein provided to the contrary, or unless the context otherwise requires.

ARTICLE IV

POWERS

The powers of the Association shall include and be governed by the following:

- 4.1 General. The Association shall have all of the common law and statutory powers of a not-for-profit corporation under the laws of Florida that are not in conflict with the provisions of these Articles or of the Act.

4.2 Enumeration. The Association shall have all the powers and duties set forth in the Act (except as to variances in these Articles and the Declaration which are permitted by the Act), and all of the powers and duties reasonably necessary to operate the Condominium pursuant to its Declaration, and as they may be amended from time to time, including, but not limited to, the following:

- A. To make and collect regular and special Assessments and other charges against Members as Unit Owners, and to use the proceeds thereof in the exercise of its powers and duties.
- B. To buy, own, operate, lease, sell and trade both real and personal property as may be necessary or convenient in the administration of the Condominium.
- C. To maintain, repair, replace, reconstruct, add to, and operate the Condominium and other property acquired or leased by the Association for use by Unit Owners.
- D. To purchase insurance upon the Condominium and insurance for the protection of the Association, its officers, directors, and Members as Unit Owners, and such other parties as the Association may determine in the best interest of the Association.
- E. To make and amend reasonable rules and regulations for the maintenance, conservation and use of the Condominium and for all other lawful purposes.
- F. To approve or disapprove the leasing, transfer, mortgaging, ownership and possession of Units as may be provided by the Declaration.
- G. To enforce by legal means the provisions of the Act, the Declaration, these Articles, the By-laws, and the rules and regulations for the use of the Condominium.
- H. To contract for the management of the Condominium, and to delegate to the party with whom such contract has been entered into all of the powers and duties of the Association, except (1) those which require specific approval of the Board of Directors or the membership of the Association; (2) those which are incapable of being delegated as same may be contrary to the Declaration or the By-laws; (3) those which are contrary to the Statutes of the State of Florida; and (4) wherein a delegation is a power and duty which by its very nature is a decision or fiduciary responsibility to be made by the Board of Directors and is therefore not susceptible of delegation.
- I. To employ personnel to perform the services required for proper operation of the Condominium.

J. To enter into agreements with other parties for easements or sharing arrangements or recreational facilities as the Board of Directors may deem in the best interests of the Condominium.

4.3 Assets of the Association. All funds and the titles of all properties acquired by the Association and their proceeds shall be held for the benefit and use of the Members in accordance with the provisions of the Declaration, these Articles, and the By-Laws.

4.4 Limitation. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration and the By-laws.

ARTICLE V

MEMBERS

5.1 Membership. The Members of the Association shall consist of all of the record Owners of Units in the Condominium; and, after termination of the Condominium, if same shall occur, the Members of the Association shall consist of those who are Members at the time of the termination, and their successors and assigns. Membership shall be established by the acquisition of ownership of fee title to, or fee interest in, a condominium parcel in the Condominium, whether by conveyance, devise, judicial decree, or otherwise subject to the provisions of the Declaration, and by the recordation amongst the Public Records of Palm Beach County, Florida, of the deed or other instrument establishing the acquisition and designating the parcel affected thereby, and by the delivery to the Association of a true copy of such deed or other instrument. The new Owner designated in such deed or other instrument shall thereupon become a Member of the Association, and the membership of the prior owner as to the parcel designated shall be terminated.

5.2 Assignment. The share of a Member in the funds and assets of the Association, in its common elements and its common surplus, and membership in this Association, cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit for which that share is held.

5.3 Voting. On all matters upon which the membership shall be entitled to vote, the vote for each Unit shall be as specified in the Declaration. Said votes shall be exercised or cast in the manner provided by the Declaration and By-laws. Any person or entity owning more than one (1) Unit shall be entitled to the cumulative total of votes allocated to Units owned.

5.4 Meetings. The By-laws shall provide for an annual meeting of Members, and may make provision for regular and special meetings of Members other than the annual meeting.

ARTICLE VI

TERM OF EXISTENCE

The Association shall have perpetual existence.

ARTICLE VII

INCORPORATOR

The name and address of the subscriber of the Association is Merle D'Addario, 1151 N.W. 24th Street, Pompano Beach, Florida 33064.

ARTICLE VIII

OFFICERS

The affairs of the Association shall be administered by the officers designated in the By-laws. The officers shall be elected by the Board of Directors of the Association at its first meeting following the annual meeting of the members of the Association, and shall serve at the pleasure of the Board of Directors. The By-laws may provide for the removal from office of officers, for filling vacancies, and for the duties of the officers.

ARTICLE IX

DIRECTORS

9.1 Number and Qualification. The property, business and affairs of the Association shall be managed by a board consisting of seven (7) directors. All directors shall be Members or spouses of Members of the Association. Only one person representing the Owner or Owners of the Unit shall be eligible to be a candidate for or serve on the Board of Directors at any given time.

9.2 Duties and Powers. All of the duties and powers of the Association existing under the Act, the Declaration, these Articles and the By-laws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by Unit Owners when that is specifically required.

9.3 Election; Removal. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by the By-laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws.

ARTICLE X

INDEMNIFICATION

10.1 Indemnity. To the extent permitted by law, the Association shall indemnify any person who was or is a party or is threatened to be made a party, to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a director, employee, officer or agent of, or a committee member appointed by, the Association, against expenses (including attorney's fees and appellate attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interest of the Association; and, with respect to any criminal action or proceeding, he had no reasonable cause to believe his conduct was unlawful; except, that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or willful misfeasance or malfeasance in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine, upon application, that despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interest of the Association; and with respect to any criminal action or proceeding, he had no reasonable cause to believe that his conduct was unlawful.

10.2 Expenses. To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 10.1 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorney's fees and appellate attorney's fees) actually and reasonably incurred by him in connection therewith.

10.3 Approval. Any indemnification under Section 10.1 above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 10.1 above. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (b) if such quorum is not obtainable, or, even if obtainable a quorum of

disinterested directors so directs, by independent legal counsel in a written opinion, or (c) by a majority of the Members.

10.4 Advances. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the directors, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article.

10.5 Miscellaneous. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any By-law, agreement, vote of Members or otherwise, both as to action in his official capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

10.6 Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

ARTICLE XI

AMENDMENTS

Amendments to these Articles shall be proposed and adopted in the following manner:

12.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

12.2 Adoption. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors or by not less than one-third (1/3) of the Members of the Association. A proposed amendment must be approved by not less than a majority of the votes of the participating membership of the Association, present and voting, in person or by proxy, at a meeting at which a quorum is established or by written agreement where at least a quorum of the membership participates.

12.3 Limitation. No amendment shall make any changes in the qualifications for membership nor in the voting rights or property rights of Members.

12.4 Recording. A copy of each amendment shall be filed with and certified by the Secretary of State pursuant to the provisions of the applicable Florida Statutes, and a copy shall be recorded in the Public Records of Palm Beach County, Florida.

ARTICLE XIV ADDRESS

The principal place of business of the Corporation shall be located at 8050 Springtree Road, Boca Raton, Florida 33496, but the Corporation may maintain offices and transact business in such other places within or without the State of Florida as may from time to time be designated by the Board of Directors.

ARTICLE XV

INITIAL REGISTERED OFFICE ADDRESS
AND NAME OF REGISTERED AGENT

The registered agent of this Corporation shall be Kenneth S. Direktor, Esq., Becker & Poliakoff, P.A., 500 Australian Avenue South, Ninth Floor, West Palm Beach, Florida 33401.

ACCEPTANCE BY REGISTERED AGENT

HAVING BEEN NAMED TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE STATED NON-PROFIT CORPORATION, AT THE PLACE DESIGNATED IN ARTICLE XV OF THESE ARTICLES OF INCORPORATION, THE UNDERSIGNED HEREBY AGREES TO ACT IN THIS CAPACITY, AND FURTHER AGREES TO COMPLY WITH THE PROVISIONS OF ALL STATUTES RELATIVE TO THE PROPER AND COMPLETE DISCHARGE OF HIS DUTIES.

DATED THIS _____ DAY OF _____, 200__.

KENNETH S. DIREKTOR
(Registered Agent)

212122_4