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CERTIFICATE OF AMENDMENT

**AMENDMENTS TO
DECLARATION OF CONDOMINIUM
OF
FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION, INC., A CONDOMINIUM
AND
AMENDMENTS
TO
BY-LAWS
OF
FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION, INC.**

AND NOTICE OF CORRECTING SCRIVENER'S ERROR

I, the undersigned President of Forest Creek Villas Condominium Association, Inc., hereby certify that on February 13, 2016, at a duly-called and properly-noticed meeting of the Association members at which a quorum was present, the Declaration of Condominium, and Bylaws were amended and restated in their entirety upon the approval of the required percentage of voting interests of the Association.

On April 5, 1990, the Declaration of Condominium of Forest Creek Villas Condominium Association, Inc., a Condominium was amended and restated in its entirety and is recorded in Official Record Book 2140, at Page 1304, et seq. of the Public Records of Lee County, Florida. Article 11.13 of the Declaration of Condominium prohibited motorcycles from being parked on a lot or upon any common element or Association Property. On March 23, 2004, the Declaration of Condominium of Forest Creek Villas Condominium Association, Inc., a Condominium was amended and restated in Official Records Book 4234, Pages 3844, et seq. of the Public Records of Lee County, Florida. The word "motorcycle" was unintentionally omitted from Article 11.13 of the Declaration of Condominium. Accordingly, the word "motorcycle" has been included to Article 11.13 of the Declaration of Condominium to correct that scrivener's error found in Official Records Book 4234, Pages 3844, et seq. of the Public Records of Lee County, Florida.

See Exhibit "A" attached hereto for amendments.

Dated this 28 day of March, 2016.

Witnesses:

Melissa Inganamort

By: Melissa Inganamort

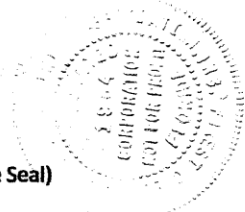
Gloria Correa

By: Gloria Correa

**FOREST CREEK VILLAS CONDOMINIUM
ASSOCIATION, INC.**

[Signature]

By: Wayne Hass
Association President



(Corporate Seal)

STATE OF FLORIDA
COUNTY OF LEE

Subscribed before me this 28th day of March, 2016, by Wayne Hass,
Association President, who is personally known to me.



Katherine Breneman
NOTARY PUBLIC

Katherine Breneman
Printed Name of Notary Public

My Commission Expires: July 31, 2019

*Amended and Restated Declaration of Condominium
of Forest Creek Villas Condominium Association, Inc., a Condominium*

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**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM
OF FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION, INC., A CONDOMINIUM**

**SUBSTANTIAL REWORDING OF DECLARATION OF CONDOMINIUM. SEE PRIOR DECLARATION OF
CONDOMINIUM AND AMENDMENTS FOR PREVIOUS TEXT.**

KNOW ALL MEN BY THESE PRESENTS:

That heretofore on December 16, 1983 the Declaration of Condominium of FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION. . . . was recorded in Official Records Book 1705, Page 2712- of the Public Records of Lee County, Florida and that original Declaration of Condominium was amended and restated on March 28, 1990 and remains in full force and effect. Its text can be found in the Lee County, Florida O.R. Book 2140, Page 2140, pg. 1188. However, this document contains a substantial rewording of said Declaration. Rewording in this restatement is indicated by double underlining to differentiate it from the previous restatement and the underlining of paragraph titles. Where the proposed amendment is too extensive to underline, a notation to that effect is inserted immediately preceding the proposed amendment.

1. **RESTATEMENT OF CONDOMINIUM DECLARATION:** This Amended and Restated Declaration of Condominium is made by FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION, INC., a Florida corporation not-for-profit, hereinafter called the "Association". The land described in the above-referenced Declaration and the improvements located thereon have already been submitted to condominium ownership and use pursuant to the Florida Condominium Act, Section 718, Florida Statutes. No additional land is being submitted to condominium ownership by this Declaration, and no additional units are being created.

2. **NAME AND ADDRESS:** The name of this Condominium is FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION, INC., and its street address is 10968 Laitner Creek Drive, Box 148, Bonita Springs, Florida, 34135.

3. **DESCRIPTION OF CONDOMINIUM PROPERTY:** The land which has been submitted to condominium ownership is legally described in Exhibit "A" attached hereto and incorporated herein by reference.

3.1 **Applicability of Declaration of Condominium.** The covenants and restrictions contained in this Declaration shall run with the land and be binding upon and inure to the benefit of all present and future owners of condominium parcels. The acquisition of title to a unit, or any interest in the condominium property, or the lease, occupancy, or use of any portion of the condominium property shall constitute an acceptance and ratification of all provisions of this Declaration and an agreement to be bound by its terms.

3.2 **Construction.** The provisions of this Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan of condominium ownership.

4. **DEFINITIONS:** The terms used in this Declaration and its exhibits shall have the meanings sates below and in Section 718, Florida Statutes, unless the context otherwise requires.

4.1 “Assessment” means a share of the funds required for the payment of common expenses, which from time to time is assessed against the unit owner.

4.2 “Association” means FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION, INC., a Florida corporation not-for-profit, which is the corporate entity responsible for the operation of the condominium.

4.3 “Association Property” includes the property, real and personal, in which title or ownership is vested in the Association for the use and benefit of its members.

4.4 “Board of Directors” or “Board” means the representative body which is responsible for the administration of the Association, and is the same body referred to in the Condominium Act, Section 718, Florida Statutes, as the “Board of Administration”.

4.5 “Common Elements” means the portions of the condominium property not included in the units and as further defined in Section 7 herein. A schedule of the Percentage of Ownership by Each Unit of the Common Elements is attached hereto and incorporated herein by reference as Exhibit “C”.

4.6 “Common Expenses” means all the expenses and assessments properly incurred by the Association for the condominium.

4.7 “Common Surplus” means the excess of all receipts of the Association collected on behalf of a condominium including, but not limited to, assessments, rents, profits, and revenues on account of the common elements over the common expenses.

4.8 “Condominium” means that form of ownership of real property which is created pursuant to the provisions of the Condominium Act, Section 718, Florida Statutes, and which is comprised of units that may be owned by one or more persons, together with an undivided share in common elements.

4.9 “Condominium Documents” means and includes this Declaration and all recorded exhibits thereto, as may be amended from time to time.

4.10 “Family” means one or more persons. If more than one person, each person shall be related to each of the others by blood, marriage, or adoption, or not more than two unrelated persons living as a single housekeeping unit.

4.11 “Fixtures” means those items of tangible personal property which, by being physically annexed or constructively affixed to the unit, become accessory to it and part and parcel of it, including but not limited to interior partitions, walls, appliances which have been built in or permanently affixed and plumbing fixtures. Fixtures do not include the finish coating of the walls.

4.12 “Guest” means any person who is physically present in, or temporarily occupies a unit at the invitation of the unit owner without the payment of consideration.

4.13 “Insurance Trustee” means that Florida financial institution having trust powers which may be designated by the Board to receive proceeds on behalf of the Association which proceeds are paid as a result of casualty or fire loss covered by Insurance policies.

4.14 “Lease” means the grant, in writing, by a unit owner of a temporary right to the use of the owner’s unit for a valuable consideration.

4.15 “Limited Common Elements” means those common elements which are reserved for the use of a particular condominium unit or units to the exclusion of all other units.

4.16 “Mortgagee” means the holder of a mortgage against a condominium parcel.

4.17 “Occupant” when used in connection with a unit, means any person who is present in a unit on two or more consecutive days, including staying overnight.

4.17a “Qualifying Occupant” – a person who meets the criteria for ownership/lease of a unit, as set out in this Declaration.

4.17b “Approved Occupant” – a person who meets the criteria for ownership/lease and has been approved by the Board.

4.18 “Primary Mortgagee” – That mortgage which, at any given time, holds a first mortgage on the greatest number of units in the condominium.

4.19 “Primary Occupant” means a person or persons approved for occupancy when title to a unit is held in the name of a trustee or a corporation or other entity. Such person or persons shall in all respects be deemed the unit owner and shall exercise all rights as a unit owner, and be responsible for all obligations of a unit owner.

4.20 “Quorum” – the minimal number of officers or members of a decision-making body, usually a majority who must be present for voting or the conduct of business.

4.21 “Reasonable Attorney’s Fees” means and includes reasonable fees for the services of attorneys-at-law whether legal services are performed prior to or subsequent to the filing of a lawsuit or administrative petition.

4.22 “Rules and Regulations” means the rules and regulations promulgated by the Board of Directors, from time to time concerning the use of the common elements.

4.23 “Special Assessments” means any assessment levied against unit owners other than the assessment required by a budget adopted annually.

4.24 “Unit” means a part of the condominium property which is subject to exclusive ownership. A unit may be in improvements, land or land and improvements together, as specified in the declaration of the condominium.

4.25 “Unit Owner” or “Owner of a Unit” means one who holds title to a condominium parcel (i.e. a unit and an undivided share of common elements).

4.26 “Voting Certificate” means a document which designates one of the record title owners, or the corporation, partnership or entity representative who is authorized to vote on behalf of a condominium unit owned by more than one owner or by any entity. A voting certificate is not required by a husband and wife unless said husband and wife are legally separated.

4.27 “Voting Interest” means the voting rights distributed to the Association members.

5. DESCRIPTION OF IMPROVEMENTS: SURVEY AND PLANS

5.1 Survey and Plans. Incorporated by reference and made a part hereof are certificates of surveyors, surveys of the land and site plans, which graphically describe the improvements in which units are located, and which show all the units, including their identification numbers, locations and approximate dimensions and the common elements and limited common elements (attached hereto and incorporated herein as composite Exhibit “B”). Together with this Declaration, composite Exhibit “B” is sufficient detail to identify each unit, the common elements and limited common elements, and their relative locations and dimensions.

5.2 The Condominium consists of forty-six (46) units.

6. CONDOMINIUM PARCELS, APPURTENANCES AND USE

6.1 Number. The Condominium contains 46 units. Each unit shall have an undivided share in the ownership of common elements and common surplus, as set forth in Exhibit “C” attached hereto and incorporated herein by reference.

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

A. Upper and Lower Boundaries. The upper and lower boundaries of the unit shall be the following boundaries extended to their intersections with the perimetrical boundaries:

(1) Upper Boundaries shall be the intersecting planes of the highest surfaces of the unfinished roof.

(2) Lower Boundaries shall be the plane of the lowest surfaces of the unfinished floor slab.

B. Perimetrical Boundaries. The perimetrical boundaries of the unit shall be the following boundaries extended to an intersection with the upper and lower boundaries:

(1) Exterior Building Walls. The intersecting vertical planes adjacent to and which include the exterior of the outside walls of the building bounding a unit and fixtures thereon.

When a portion of the roof overhangs the vertical planes, the perimetrical boundary shall be extended to include that portion of the roof within the unit.

(2) Interior Building Walls. The vertical planes of the center line of walls bounding a unit extended to intersections with other perimetrical boundaries.

When walls of different thickness abut so that their center lines do not intersect within the walls, the plane of the center line of the thinner wall shall be extended into the thicker wall for a distance that is one half the thickness of the thinner wall, and the boundary shall thence run at a right angle to the plane of the center line of the thicker wall.

6.3 Appurtenances to Each Unit. The owner of each unit shall have certain rights and own a certain interest in the condominium property, including, but not limited to, the following items:

A. An undivided share in the land and other common elements as specifically set forth herein.

B. Membership in the Association. Membership shall be acquired pursuant to the provisions of the Amended and Restated Articles of Incorporation and the Amended and Restated By-Laws of the Association, attached hereto and incorporated herein as Exhibits "D" and "E".

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

D. An exclusive easement for the use of the airspace occupied by the unit as it exists at any particular time and as the unit may lawfully be altered or reconstructed from time to time. An easement in airspace which is vacated shall be terminated automatically.

E. Other appurtenances as may be provided in this Declaration and its exhibits including, but not limited to, two parking spaces for each unit.

F. Any unit owner may display one portable removable United States flag in a respectful way regardless of any Declaration rules or requirements dealing with flags or decorations.

6.4 Use and Possession. A unit owner is entitled to exclusive use and possession of his unit. He is entitled to use the common elements in accordance with the purpose for which they are intended, but no use may hinder or encroach upon the lawful rights of other unit owners or other persons having rights to use the condominium property, or interfere with the rights of other units to peaceful possession and quiet enjoyment. No unit may be divided or any fractional portion sold or otherwise transferred. The use of any unit's common elements and limited common elements shall be governed by the Declaration of Condominium, By-Laws, Articles of Incorporation, and by the Rules and Regulations adopted by the Association, or, if applicable, its Board of Directors, in the manner set forth in the By-Laws or any amendment thereto or restatement thereof.

7. COMMON ELEMENTS AND EASEMENTS

7.1 Definition of common elements. The term “common elements” means all portions of the condominium property not included within the units, as defined in Section 4.5 of this Declaration of Condominium, and includes within its meaning the following:

- A. The land upon which condominium improvements are located.
- B. All portions of the buildings and other improvements not included within the condominium units as described in Section 6.2.
- C. Easements through units for conduits, ducts, plumbing, wiring, and other facilities for furnishing utility services to units and the common elements.
- D. An easement of support in every portion of a unit which contributes to the support of the building.
- E. The property and equipment required for furnishing utilities and other services to more than one unit or to the common elements.
- F. Any other parts of the condominium property designated as common elements in this Declaration of Condominium or any recorded exhibit thereto.

7.2 Easements. Each of the following easements and easement rights is reserved through the condominium property and is a covenant running with the land of the condominium, and notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any of the lands of the condominium from the condominium.

A. Utilities. An easement or easement rights shall exist as may be required for utility services in order to adequately serve the condominium property; provided, however, easements through a unit shall be only according to the plans and specifications for the building or as the building is actually constructed, unless approved, in writing, by an individual unit owner.

B. Encroachments. In the event that any unit shall encroach upon any of the common elements or upon any other unit for any reason other than the intentional or negligent act of the unit owner, or in the event any common element shall encroach upon any unit, then an easement shall exist to the extent of that encroachment for so long as the encroachment shall exist.

C. Ingress and Egress. A non-exclusive easement in favor of each unit owner and occupant, their respective guests and invitees, shall exist for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portions of the common elements as from time to time may be intended and designated for such purpose and use; and for vehicular and pedestrian traffic over, through, and across such portions of the common elements as from time to time may be paved and intended for such purposes, and for the purpose of ingress and egress to the public way. None of the easements specified in this subparagraph shall be encumbered by any leasehold or lien other than those

on the Condominium Parcels. Any such lien encumbering such easements shall be automatically subordinate to the rights of unit owners with respect to such easements.

D. Support. Every portion of a unit contributing to the support of the condominium building or an adjacent unit shall be burdened with an easement of support for the benefit of all other units and common elements in the building.

E. Perpetual Nonexclusive Easement in Common Elements. The common Elements shall be, and the same is hereby declared to be subject to a perpetual nonexclusive easement in favor of all of the owners of units in the condominium for their use and the use of their immediate families, guests and invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of said owners.

F. Right of Entry into Private Dwellings in Emergencies. In case of an emergency originating in or threatening any unit, regardless of whether or not the owner is present at the time of such emergency, the Board of Directors of the Association, or any other person authorized by it, or the building manager or managing agent, shall have the right to enter such unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be to facilitate entry by any reasonable means in the event of any such emergency.

G. Right of Entry for Maintenance of Common Property. Whenever it is necessary to enter any unit for the purpose of performing any maintenance, alteration or repair to any portion of the condominium property, the owner of each unit shall permit the duly constituted and authorized agent of the Association, to enter such unit for such purpose, provided that such entry shall be made only at reasonable times and with reasonable advance notice.

H. Air Space. An exclusive easement for the use of the air space occupied by a condominium unit as it exists at any particular time and as the unit may lawfully be altered.

I. Easement for Overhangs. Easement for overhanging troughs or gutters, downspouts and the discharge therefrom of rainwater and the subsequent flow thereof over condominium units or any part of them.

J. Easement for Air Space of Common Elements. An exclusive easement for the use of the area and air space occupied by the air conditioning compressor and the equipment and fixtures appurtenant thereof, situated in and/or on common elements of the condominium but exclusively serving and individually owned by the owner of the unit, as the same exist in and on the land, which exclusive easement shall be terminated automatically in any air space which is permanently vacated by such air conditioning compressor, and the equipment and fixtures appurtenant thereto; provided, however, that the removal of same for repair and/or replacement shall not be construed to be a permanent vacation of the air space which it occupies.

7.3 Restraint Upon Separation and Partition.

A. The undivided share in the common elements appurtenant to a unit shall not be separated from the unit and shall pass with the title to the unit, whether or not separately described.

B. The share of the common elements appurtenant to a unit cannot be conveyed or encumbered except together with the unit and no legal action for partition of the common elements may be brought.

C. A unit's share in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner except as an appurtenance to the unit.

8. THE ASSOCIATION: The operation of the condominium shall be by FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION, INC., a Florida corporation not-for-profit, which shall perform its functions pursuant to the following:

8.1 Articles of Incorporation. A copy of the Amended and Restated Articles of Incorporation is attached and incorporated herein by reference as Exhibit "D".

8.2 By-Laws. The Amended and Restated By-Laws of the Association are attached as Exhibit "E".

8.3 Delegation of Management. The Association may contract for the management and maintenance of the condominium property and authorize a management agent or manager 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 the common elements for which funds may be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties provided in the Condominium Act, the Florida Corporation for Profit and Not-For-Profit Acts, and all other appropriate statutes.

8.4 Membership. The membership of the Association shall be comprised of owners of the condominium units, as further provided in the By-Laws, Section 2.1.

8.5 Acts of the Association. Unless the approval or affirmative vote of the unit owners is specifically made necessary by some provision of the Condominium Act or the condominium documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board of Directors. The officers and Directors of the Association have a fiduciary relationship to the unit owners. A unit owner does not have the authority to act for the Association by reason of being a unit owner.

8.6 Powers and Duties. The powers and duties of the Association include those set forth in the Condominium Act and the condominium documents. The Association may contract, sue, or be sued with respect to the exercise or nonexercise of its powers. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the condominium property as set forth in the Association's By-Laws.

8.7 Fiscal Matters. The Association shall maintain financial records according to good accounting practices. The records shall be open to inspection by unit owners or their authorized representatives at reasonable hours in accordance with the mandates of Section 718, Florida Statutes,

the Condominium Act, and copies of the Association's financial reports shall be supplied at least annually to unit owners or the authorized representatives as provided for by the By-Laws. The records shall include, but are not limited to the following:

- A. A record of all receipts and expenditures.
- B. All financial source documents.
- C. A balance sheet providing the Condominium's assets, liabilities and balances in banks or other institutions.
- D. An account for each unit designating the name and current mailing address of the unit owner, the amount of each assessment, the dates and amounts in which assessments come due, the amounts paid on account, and the balance due.

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

8.9 Official Records. The Association shall maintain a copy of each of the following, which shall constitute the official records of the Association:

- A. The plans, permits, warranties, and other items provided by the Developer pursuant to Florida Statute 718.301(4).
- B. A photocopy of the Amended and Restated Declaration of Condominium operated by the Association and all amendments thereto.
- C. A photocopy of the recorded By-Laws of the Association and all amendments thereto.
- D. A photocopy of the recorded Articles of Incorporation of the Association and all amendments thereto.
- E. A copy of the current rules and regulations of the Association.
- F. The minutes of all meetings of the Association and of the Board of Directors for a period of seven years.
- G. A current roster of all unit owners, the mailing addresses, unit identifications, voting certifications, and telephone numbers.
- H. All current insurance policies of the Association.
- I. A current copy of any management agreement, lease or other contract to which the Association is a party or under which the Association or the unit owners have an obligation or responsibility.

- J. Bills of Sale or transfer of all property owned by the Association.
- K. Voting proxies for one year from the date of use.
- L. Such other documents as may be appropriate.

9. ASSESSMENTS AND LIENS: The Association has the power to make and collect assessments against each unit and unit owner in order to provide the necessary funds for proper operation and management of the condominium and for the operation of the Association. The power of the Association to make and collect assessments includes regular assessments for each unit's share of the common expenses, and special charges against any individual unit for any amounts, other than for common expenses, which are properly chargeable against such unit under this Declaration of Condominium or the Association's By-Laws. Such assessments shall be made and enforced as provided by Florida law and as follows:

9.1 Common Expenses. Common expenses include the expenses of the operation, maintenance, repair and replacement of the common elements, the expenses of operating the Association and any other expenses properly incurred by the Association for the Condominium, including any amounts budgeted for the purpose of funding reserve accounts and special assessments authorized by the Board of Directors of FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION, INC.

9.2 Share of Common Expenses. Each unit owner shall be liable for his or her prorata share of the common expenses, and shall share in the common surplus, in the same proportion. Such right shall not vest or create in any unit owner the right to withdraw or receive distribution of his share of the common surplus, except as otherwise provided herein.

9.3 Ownership. Assessments collected by the Association become the property of the Association. No unit owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his unit.

9.4 Liability for Assessment. The owner of each unit, regardless of how title was acquired, is liable for all assessments coming due while he or she is the owner. Multiple owners are jointly and severally liable. Whenever title to a unit is transferred for any reason, including but not limited with the previous owner for all unpaid assessments against the previous owner, without prejudice to any right the transferee might have to recover from the transferor any amounts paid by the transferee.

9.5 Units Owned by Association. Whenever one or more units is owned by the Association, the assessment which would otherwise be due and payable to the Association by the owner(s) of such unit(s), reduced by an amount of income which may be derived from the leasing of such unit(s) by the Association, shall be apportioned and the assessment therefore levied ratably among the owners of all units which are not owned by the Association, based upon their proportionate interests in the common elements exclusive of the interest therein appurtenant to any unit or units owned by the Association.

9.6 No Waiver. The liability for assessment may not be avoided by waiver of the use or enjoyment of any common elements or by abandonment of the unit for which an assessment is made.

9.7 Excuse From Payment. No unit owner may be excused from payment of his share of the common expenses unless all unit owners are likewise proportionately excused from payment, except as provided herein as to first mortgagees.

9.8 Certificate as to Assessments. Any owner shall have the right to acquire from the Association a certificate showing the amount of unpaid assessments against him with respect to his condominium parcel. The holder of a mortgage or other lien shall have the same right as to any condominium parcel upon which he has a lien.

9.9 Failure to Pay Interest. All sums not so paid when due shall bear interest at the rate of eighteen percent (18%) per annum or the highest rate permitted by law. Assessments and installments therein shall become due, and the unit owner shall become liable for said assessments and installments, on the date set by the Association for payment. Assessments and installments not paid within ten (10) days from the date when they are due shall incur a late fee in an amount as determined by the Board of Directors, which, unless otherwise specified, shall be the maximum allowed by law. The Board may accelerate unpaid Assessments in the manner prescribed by law.

9.10 Liens. The Association shall have a lien on each condominium parcel for any unpaid monetary obligations including, but not limited to assessments, interest, late fees, all attorney's fees incurred by the Association incident to the collection of the monetary obligations or enforcement of the lien and all costs, including but not limited to postage costs, long distance and local telephone costs, lien search fees and court costs. The lien is effective after recording a Claim of Lien in the Public Records of Lee County, Florida, stating the legal description of the condominium parcel, the name of the record owner, the amount due and due dates. The lien is in effect until barred by law. The Claim of Lien includes monetary obligations which are due when the Claim is recorded, as well as all monetary obligations which become due subsequent to the filing of said Claim. Upon full payment, including the payment of all attorney's fees, interest, late fees and costs, the person making the payment is entitled to a Satisfaction of Lien (cost to be borne by the delinquent owner) and all attorney's fees and costs incident to the preparation and recording of said Satisfaction.

9.11 Priority of Lien. The Association's lien for unpaid monetary obligations shall date back to the date of recording this Declaration of Condominium (i.e., January 6, 1984) and shall be subordinate and inferior only to any recorded first-priority mortgage, unless the Association's Claim of Lien was recorded prior to the first-priority mortgage. Any lease of unit shall be subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed. The priority of the Association's lien and the obligation for payment of past due Assessments or other sums due in relation to first mortgagees who obtain title as a result of foreclosure or deed in lieu of foreclosure, shall be determined by the Florida Condominium Act, Chapter 718, Florida Statutes, as amended from time to time.

9.12 Assignment of Claim by Association. The Association has the right to assign its lien rights for recovery of unpaid assessments to another unit owner, a group of unit owners or a third party with or without prior notice to the delinquent owner.

9.13 Foreclosure. The Association may bring an action in its name to foreclose a lien for unpaid assessments in the manner provided in the Condominium Act, Section 718, Florida Statutes and applicable Florida Law, and may also bring an action to recover a money judgment for the unpaid assessments without waiving any right to foreclose.

If the unit owner remains in possession of the unit and the Claim of Lien is foreclosed, the court, in its discretion, may require the unit owner to pay a reasonable rental for the unit, for the period of time between the entry of a foreclosure judgment and the time of the foreclosure sale, and the Association is entitled to the appointment of a receiver to collect the rent. Alternatively, the Association shall be entitled to all possessory rights as provided by Florida Law.

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

9.15 Attachment of Rental Income When Unit is Delinquent. Notwithstanding any other remedy available to the Association under this Declaration, the Bylaws, or applicable law, the Association shall have the following options when payment of Assessments or Charges are in default (more than ten days in arrears). The Association may, without order of the Court, direct rental income (by written notice to the Tenant with copy to Unit Owner) from Units in default to be paid directly to the Association until all outstanding Assessments, Charges, other monetary obligations, interest, late fees, costs, collection expenses, attorney's fees and receiver's fees, if applicable, are paid in full. As an alternative, the Association may apply to a Court of competent jurisdiction, either in connection with a foreclosure suit, a personal suit, or otherwise, to have rental proceeds paid on account of a Unit in default paid directly to the Association, the court registry, or a receiver, as the Court may direct. The Association may choose any of these courses of action, or other remedies as may be prescribed by law or elsewhere in the Condominium Documents, as the Board deems appropriate, without same constituting a waiver or election of remedies.

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

9.17 Lien for Charges. There is created by this Declaration a common law and contractual lien to secure payment for any service which the Association provides for an individual Unit Owner or expenses which the Association incurs in regard to a Unit Owner and which is not otherwise secured by the statutory lien for Common Expenses. By way of example, but not limitation, a Lien for Charges exists to secure repayment to the Association when it must remove or reinstall Unit Owner alterations or items of Unit Owner insurance, maintenance, repair or replacement responsibility in connection with the Association's discharge of its Common Element maintenance responsibilities, or address emergency situations, such as water extraction from a Unit. The Lien for Charges shall be of equal priority to, shall

accrue interest and late fees, and shall be foreclosed in the same manner as the Common Expense lien, including the right to recover attorney's fees, costs and expenses of collection.

9.18 Other Remedies. The Board of Directors shall have the authority to impose such other remedies or sanctions permitted by the Act pertaining to non-payment of monetary obligations to the Association. Without limitation, same include suspension of use rights in Common Elements and Association Property; suspension of voting rights; suspension of the right to serve on the Board; the attachment of rental income; denial of lease approval requests; and acceleration.

10. MAINTENANCE AND LIMITATION UPON IMPROVEMENT: Responsibility for the maintenance of the condominium property and restrictions on its alterations and improvements shall be as follows:

10.1 Units.

A. By the Association. The Association shall maintain, repair and replace at the Association's expense:

(1) All portions of the unit which contribute to the support of the building, including but not limited to the perimeter walls, columns and roof, and the exterior surface of the unit. However, if any such maintenance, repair, or replacement shall be made necessary because of the negligence, act or omission of a unit owner, his family, lessees, invitees or guests, then the work shall be done by the Association at the expense of the unit owner and the cost shall be recovered by an assessment against the unit.

(2) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services contained in the portion of a unit that service part or parts of the condominium other than the unit within which contained.

(a) All incidental damage caused to a unit by such work immediately above described shall be repaired promptly at the expense of the Association.

(3) Roof, including supporting plywood and trusses if needed.

(4) Fascia boards.

(5) Soffits.

(6) Shutters.

(7) Roof shingles shall be cleaned of fungus.

(8) All gutters and downspouts will be cleaned of leaves and debris. (Owner cleaning at own risk)

(9) Foundation plantings under certain conditions (see 6)

(10) Painting, exterior only.

All exterior surfaces visible from the outside of the units including:

- a. Exterior main supporting walls.
- b. Entryway walls.
- c. Lanai walls (but not Florida room walls).
- d. Main entrance door (outside surface and trim).
- e. Shutters.
- f. Window sills.
- g. Facia boards and gutters.
- h. Soffits (if needed).
- i. All gutters and downspouts.

B. Reserves for Deferred Maintenance. Under Section 9.1.1 of this Declaration, the Association is required to maintain, repair, and replace portions of the building which are not common elements of the condominium and which are contained within the boundaries of the unit. Notwithstanding the foregoing, and pursuant to Section 718.115(1) of the Condominium Act, it is the intention of this Declaration that the expense of any such maintenance, repair, or replacement shall be a common expense of the condominium. The Association shall establish reserve accounts, in the manner provided by law, for these expenses, including roof replacement and building painting, as well as for deferred maintenance of the common elements of the condominium, such as pavement resurfacing and pool replacement, unless such reserves are waived by a majority vote of the unit owners in the manner provided by law.

C. By the Unit Owner. The responsibility of the unit owner at his own expense shall be as follows:

(1) All maintenance, repairs, and replacements of his own unit, except as assumed by the Association in Section 10.1.A and of such portions of the plumbing, heating and air conditioning equipment and other facilities or fixtures as are located within his own unit or which service only his unit; provided however, that any insurance proceeds paid to the Association with respect to any loss or damage to the fixtures within the unit which are covered by the Association's insurance provided for in this Declaration, and which loss would otherwise be borne by the unit owner, shall be paid to such unit owner, less any deductible required by the insurance policy.

(2) All decorating within his own unit, including painting, wallpapering, paneling, floor covering, draperies, window shades, curtains, lamps and other light fixtures, and other furnishings and interior decorating.

(3) When the original screening of a lanai or front entryway has been removed and then enclosed with glass, metal or other material, the unit owner shall be responsible for all maintenance of the enclosure plus any floor coverings and the ceilings.

(4) All screens and screen doors.

(5) All gutters and downspouts (except cleaning and painting)

(6) All foundation planting (planting done next to building and behind the drip line) and other plantings approved by the Association for which the owner has assumed responsibility, except for the special maintenance to be done by the Association as follows:

At the owner's expense the Association shall take any necessary maintenance action required to correct any overgrown or unkempt condition of a unit owner's plantings due to neglect, long term absence or illness of the unit owner. The Association will give the unit owner advance notice of the intent to do this maintenance.

(7) Unit windows.

(8) No unit owner shall paint, decorate or change the appearance of any exterior portion of the buildings, entranceway, or lanai walls or the common elements, unless the prior written consent of the Association is first obtained.

(9) The covering and appearance of windows and doors, whether by draperies, shades or other items visible from the exterior of the unit, shall be subject to regulation by the Association.

(10) A unit owner shall not make any changes in his unit which would add to or remove any part of the common elements or do anything which would adversely affect the safety or soundness of any portion of the condominium property.

(11) A unit owner shall maintain and keep in a neat and trim condition the floor and interior walls.

(12) Any officer of the Association or any agent of the Board shall have the irrevocable right to have access to each unit from time to time during reasonable hours as may be necessary for inspection, maintenance, repair or replacement of any common element therein or accessible therefrom or for making emergency repairs there-in necessary to prevent damage to the common elements or to another unit or units.

10.2 Common Element. The maintenance of the common elements is the responsibility of the Association and is a common expense. There shall be no material alteration of, or substantial additions to the common elements except in accordance with the following:

A. The Board of Directors may not authorize or make any additions or capital improvements to the Condominium Property costing more than five percent (5%) of the Association's budget for the fiscal year in which the work is authorized, including reserves, without obtaining a sixty-six and two-thirds percent (66 2/3%) vote in favor of such additions or improvements by all those voting

interests present, in person or by proxy, at a meeting called for the purpose of considering said additions or improvements. Necessary maintenance of the Common Elements, or Association Property regardless of the level of expenditure, is the responsibility of the Board of Directors and no vote of the members shall be required to authorize necessary maintenance.

B. Nothing herein shall be construed to prevent the installation by individual owners of screen doors, or storm shutters on porches and windows if done at the owner's expense, subject to regulation by the Board of the structural and aesthetic qualities of such installations.

(1) Land Acquisition. Land acquired by the Association may be added to the land submitted to condominium ownership hereby. This may be done by an amendment to this Declaration that includes the description of the acquired land and submits the said land to condominium ownership under the terms of this Declaration. The amendment shall be executed by the Association and adopted by the unit owners after obtaining a sixty-six and two-thirds percent (66 2/3 %) vote in favor of the land acquisition. Such amendment, when recorded in the Public Records of Lee County, Florida, shall divest the Association of title to the land and shall state that it conveys all interest of the Association to and vests the title in the unit owners, without naming them and without further conveyance, in the same undivided shares as the undivided shares in the common elements appurtenant to the units owned by them.

(2) Land Not Incorporated. Any land acquired by the Association that is not incorporated into the condominium by amendment of this Declaration, may be sold or otherwise disposed of by the Association after approval in writing by not less than seventy-five percent (75%) of the record title unit owners. This approval shall be evidenced by a certificate stating that the approval was duly given, which certificate shall be executed by the officers of the Association with the formalities of a deed and delivered to a purchaser or mortgagee of such land.

(3) Personal Property. Any personal property acquired by the Association may be sold or otherwise disposed of by the Association.

10.3 Enforcement of Maintenance. If the owner or a unit fails to maintain said unit as required above, the Association shall have the right to institute legal proceedings to enforce compliance, or may take any and all other steps necessary to remedy such violation, including but not limited to entering the unit, with or without consent of the unit owner, and may repair, replace, or maintain any item which constitutes a hazard to other condominium property or residents. Any expenses so incurred by the Association shall be assessed against the unit owner, together with reasonable attorney's fees and other expenses of enforcement.

10.4 Negligence. Each unit owner shall be personally liable for the expenses of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his family or his guests, employees, agents, or lessees, but, unless the negligence is of such character as to evidence gross recklessness or willful or wanton disregard for life or property, the unit owner shall be liable only to the extent that such expense is not met by the proceeds of insurance carried by the Association.

10.5 Additional Unit Owner Responsibility for Modifications or Alterations. If a Unit Owner (or his predecessors in title) makes, or has made any modifications or alterations to the interior or exterior of the Unit, Common Elements, or Limited Common Elements, the Unit Owner (and his heirs, successors in title and assigns) shall be financially responsible for the insurance, maintenance, care, preservation, reconstruction, repair or replacement of the modification or alteration and shall execute such documents as the Association may promulgate, if any, accepting said financial responsibility. Any modification or alteration to the Condominium Property made by a Unit Owner may be required to be removed in connection with the Association's maintenance of the Condominium Property. In such cases, the Unit Owner who installed the modification or alteration (and/or their successors in title) shall be obligated to reimburse the Association for any costs affiliated with removal and/or re-installation of the item, with said obligation being secured by a right of Lien for Charges of equal dignity to the Common Expense lien created by this Declaration, or alternatively, said Owner may be required to remove and reinstall said modification or alteration, if so determined by the Board of Directors. Further, the Association, its contractors and agents, shall not be liable for any damage to the item arising out of its removal and/or reinstallation, unless occasioned by the gross negligence or willful misconduct of the Association or its contractor or agent, although the Association may provide for stricter liability standards in contracts with contractors.

10.6 Negligence: Damage Caused by Conditions of the Condominium Property. The Unit Owner shall be liable for the expenses of any maintenance, repair or preplacement of Common Elements, other Units, or personal property made necessary by his act or negligence, or by that of any member of his family or his guests, employees, agents, or tenants. Each Unit Owner has a duty to maintain his Unit, any Limited Common Element appurtenant to the Unit, and personal property therein, in such a manner as to prevent foreseeable and reasonably preventable damage to other Units, the Common Elements or the property of other Unit Owners or occupants. If any condition, defect or malfunction, resulting from the Owner's failure to perform his duty causes damage to other Units, the Common Elements, Association property, or property within other Units, the Owner of the offending Unit shall be liable for the damage. Neither Association nor any Unit Owner shall be liable for any damage to the real or personal property and any improvements or betterments thereof or any injury to any person caused by water intrusion into a Unit from another Unit or the Common Element resulting from rain leakage, pipe leakage, overflow, or bursting, or other similar source unless the Association or Unit owner is guilty of negligence or willful or wanton misconduct.

11. Use Restrictions. The use of the units shall be in accordance with the following provisions for as long as the condominium shall exist:

11.1 Units. Each unit shall be used only for residential purposes as a single family private dwelling for the unit owner and the members of his family, or for the unit owner's guest and lessees. No unit shall be permanently occupied by more than four (4) persons and the maximum permanent occupants and overnight guests who stay greater than thirty (30) days shall be no more than four (4) persons per unit.

11.2 Age. The Forest Creek Villas Condominium Association is herein declared a Condominium providing housing and amenities for older persons in accordance with the provisions of Section 807(B)(2)(C) of the Fair Housing Amendment Act of 1988 (42 United States Code 3601) whereby a minimum of eighty (80%) percent of all units shall be occupied by at least one approved occupant

whose age is fifty-five (55) or over. This is a condition of CFR 100.305, the Federal Regulations that implement the Fair Housing Amendments. The Association shall protect the right to occupy and use a unit transferred to under fifty-five (55) years of age survivors who have become unit owners as a result of lawful transfer from a deceased or permanently disabled owner who is a spouse or related by blood or adoption in the first degree. To meet this objective and also help meet the requirement of the Fair Housing Act to maintain the rate of occupancy, by approved clients of fifty-five (55) years of age or over, at a minimum of eighty (80) percent of all unit, the Association shall restrict all resales and leases to persons age fifty-five (55) years or greater. The Association has and will maintain sufficient facilities and services to meet the needs of the elderly unit owners and occupants. A current list of facilities, equipment, activities and transport means to outside activities will be maintained and will be readily available to all members.

A current roster of over fifty-five (55) occupants is required to be updated a minimum of once a year – See Section 11.4 of the By-Laws.

11.3 Residency of Minors. Except for guest privileges outlined below, no minor under the age of sixteen (16) years shall reside, temporarily or permanently, in any unit at any time. Each owner of a unit shall be allowed to have minors as overnight guests in a unit provided that:

- (a) There shall be no more than three (3) minors as guests within a unit at any one (1) time.
- (b) No minor shall be a guest in residence for any period of time that exceeds fourteen (14) days.
- (c) No minor shall be a guest in residence for more than an aggregate of twenty-eight (28) days in any one (1) calendar year.
- (d) No minor shall be a guest in residence for more than an aggregate of fourteen (14) days in any one (1) calendar month.
- (e) All minors who are guests in residence shall fully comply with the Declaration of Condominium, the By-Laws of the Condominium Association and the Rules and Regulations of the Condominium.

11.4 Occupancy in Absence of Owner. When the unit has not been leased, the unit owner may permit his unit to be occupied in his absence by his guests, only in accordance with the following provisions:

A. Any one person related to a unit owner within the first degree by blood, adoption or marriage, and that person's spouse and members of that person's family within the first degree by blood or adoption, are permitted to occupy that unit owner's unit in the absence of the owner.

B. House guests not included within 11.3 are permitted for only single family occupancy in the unit owner's absence and then only with the proviso that the family consist of no more than four (4) persons. Such guests may stay a maximum of thirty (30) days and the number of occasions

for such visits shall be limited to four (4) in any one calendar year. No guest shall, at any time, be permitted to infringe upon the rights and privileges of any resident or be excused from complying with any and all Rules and Regulations, as may be promulgated from time to time by the Association.

11.5 Occupancy When Owner is Present. A reasonable number of guests, related or unrelated, may occupy the unit in the presence of the unit owner.

11.6 Pets. Each unit owner may have one small domesticated household pet in his unit so long as it does not exceed forty-five (45) pounds in weight. Guests are permitted to have one small domestic household pet in the unit for not longer than 30 days so long as it does not exceed thirty-five (35) pounds in weight. There shall be no more than two (2) pets at any one time. All four-legged pets shall be kept on a leash while outside the owner's unit. The person walking the pet or the Owner shall clean up all waste of the pet. In the event that any pet kept on the premises shall constitute a nuisance in the opinion of a majority of the Board of Directors of the Association, then the owner, when so notified in writing shall be required to immediately remove said pet from the premises.

11.7 Nuisances. No nuisances shall be allowed to exist upon the condominium property. No use or practice which becomes a source of annoyance to residents shall be allowed. All areas of the condominium property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate, nor shall any fire hazard be allowed to exist. The use of each unit shall be consistent with existing laws and the condominium property. No business may be carried on, in or from any unit.

11.8 Maintenance and Appearance. Each owner shall maintain his unit and all fixtures and appliances located therein in good condition and repair at all times. Any glass, screen, curtain, blind, shutter or awning which may be installed on the exterior of the unit is subject to regulation by the Board of Directors. Each owner is prohibited from painting or otherwise decorating or changing the appearance of any portion of the exterior of his unit or the building except with permission of the Board of Directors. The installation of any appliance or addition to the exterior of the building, including but not limited to radio or television antenna, must be approved by the Board of Directors. No antenna or satellite dish shall be placed upon any common element or be affixed to the exterior of any building without the prior written permission of the Board of Directors. No satellite dishes over one (1) meter in diameter are permitted.

11.9 Common Areas. Walkways shall be used only for the purpose intended, and they shall not be used for hanging garments or other objects, for cleaning of rugs or other household items, or for storage of bicycles or other implements.

11.10 Lawful Use. No immoral, improper, offensive 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 thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair of the condominium property shall be the same as the responsibility for the maintenance and repair of the property concerned.

11.11 Signs. No signs shall be displayed from a unit or on common elements except such signs as shall have advance written approval by the Association.

11.12 Rules and Regulations. Reasonable rules and regulations concerning the use of the condominium property made be made and amended from time to time by the Association in the manner provided by its Articles of Incorporation and By-Laws.

11.13 Motor Vehicles and Boats. Except for required deliveries, no unit owner shall park or permit to be parked either on a lot or upon any common element or Association property, any vehicle designated and used for commercial purposes or containing exterior advertising matter or any swamp buggy, stock car, or other vehicle not normally used for highway travel; or any boat, motorcycle, trailer, recreational vehicle, or camper.

12.1 Forms of Ownership.

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

B. Co-Ownership. Co-ownership of units shall be permitted, but shall be limited to tenancy by the entirety, tenancy in common, or joint tenancy with right of ownership on survival. If co-ownership is to be by more than two persons, the Board may condition its approval upon occupancy only by a single family or approved individuals as "primary occupants", and the use of the unit by other persons shall be as if the primary occupants were the only actual owner. Any change in the primary occupant shall be treated as a transfer of ownership subject to all the provisions of Section 12.3 herein.

C. Ownership by Corporations or Trusts. A unit may be owned by a trustee, or by a corporation, or other entity which is not a natural person, if approved in the manner provided for other transfers of title. However, the intent of this provision is to allow flexibility in estate or tax planning, and not to create circumstances in which the unit may be used as short term transient accommodations for several individuals or families. The approval of a corporation or trust or other entity as a unit owner shall be conditioned upon designation of natural persons to be the "primary occupants", and the use of the unit by other persons shall be as if the primary occupants were the actual owner. Any change in the primary occupant shall be treated as a transfer of ownership subject to all the provisions of Section 12.3 herein. No more than one such change will be approved in any ninety (90) day period.

D. Life Estate. A unit may become subject to a life estate either by operation of law or by an approved voluntary conveyance. In that event, the life tenant or tenants shall be the only member(s) from such unit, and occupancy of the unit shall be as if the life tenants were the only owner. Upon termination of the life estate, the holder of the remainder interest shall have no occupancy rights unless separately approved by the Association. The life tenant and remaindermen shall be jointly and severally liable for all assessments and charges against the unit. The life tenant may, by signed agreement, transfer the right to vote in all Association matters to any one remainderman, subject to the approval of the Association of such arrangement. Whenever the consent or joinder of the owner of such unit is required, such consent or joinder shall be effective only if signed by the life tenant.

12.2 Transfer.

A. Sale or Gift. No unit owner may dispose of a unit or any interest therein by sale or gift without the prior written approval of the Board of Directors of the Association.

B. Devise or Inheritance. If a unit owner shall acquire his title by devise or inheritance, his right to occupy or use the unit shall be subject to the approval of the Board of Directors of the Association.

C. Death or Permanent Disability. The Association shall not deny the right to occupy or use a unit to any owner who obtains ownership as a result of death or permanent disability of the previous owner and who at the time of transfer of ownership, is or was, the previous owner's lawful spouse or related to the previous owner by blood or adoption within the first degree.

D. Other Transfers. If any unit owner shall acquire his title in any manner not considered in the foregoing subsections, the continuance of his ownership of his unit shall be subject to the approval of the Board of Directors of the Association under the procedures outlined in Section 12.3 below.

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

F. Identity of New Owner or Primary Occupant. In all cases of transfer of ownership of a unit, the new owner must give the Association legal evidence of ownership. In the case of co-ownership or ownership by corporations or trusts, a natural person must be designated as the "primary occupant" and legal evidence of such designation must be supplied to the Association. In the absence of the legal identity of the new owner or "primary occupant" of a recently transferred unit, the Association may deny the use or occupation of the unit until the legal evidence is received.

12.3 Procedures.

A. Notice to Association.

(1) Sale or Gift. An owner intending to make a sale or gift of his unit or any interest therein shall give to the Board of Directors or its designee written notice of such intention together with a copy of the proposed sales contract, if any, and such other information as the Board may reasonably require. This information shall be in the possession of the Board at least twenty (20) days prior to the date of the proposed transfer. The Board may require a personal interview of any purchaser or done and his spouse, if any, as a condition of approval.

(2) Devise, inheritance, or other transferees. The transferee must notify the Association of his ownership and submit to the Association a certified copy of the instrument evidencing his ownership and such other information as the Board may reasonably require. Except for the right to

occupy and use a unit received by transfer from the death or disability of the previous owner, as specified in Article 12.2.c. herein, the transferee shall have no occupancy right unless approved by the Board, but may sell or lease the unit following the procedures provided in this Article and in Article 13 herein.

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

B. Transfer Fee. The Board of Directors may charge a non-refundable fee up to the maximum

C. Approval or Disapproval. Within fifteen (15) days after the required notice and all information or appearances requested are received, whichever occurs last, the Board shall approve or disapprove the transfer. If a transfer is approved, the approval shall be stated in a Certificate of Approval executed by the President or Vice President of The Board, (or in their absence a Board member present on the premises) and having the corporate seal affixed in recordable form and delivered to the transferee. If the Board neither approves or disapproves within fifteen (15) days, such failure to act shall be deemed the equivalent of approval, and upon demand the Board of Directors shall issue a Certificate of Approval to the transferee.

D. Disapproval.

(1) Approval of the Association shall be withheld only if a majority of the entire Board of Directors so votes. If the disapproval is based solely on the age limit provisions of these documents, the Board shall take no further action until another applicant is provided by the owner. Only the following may be deemed to constitute good cause for disapproval:

i. The application for approval on its face, or subsequent investigation thereof, indicates that the person seeking approval (which shall hereinafter include all proposed Occupants) intends to conduct himself in a manner inconsistent with the Condominium Documents;

ii. The person seeking approval has been convicted of a crime involving violence to persons, a crime demonstrating dishonesty or moral turpitude, any felony, or a sexual offense of any nature;

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

iv. The person seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in other social organizations or associations, or by his conduct in this Condominium or other residences as a Tenant, Occupant, Guest or Owner;

v. The person seeking approval failed to provide the information, fees or appearance required to process the application in a timely manner;

vi. The Unit Owner requesting the transfer has had fines assessed against him or her which have not been paid; or,

vii. All Assessments and other Charges against the Unit have not been paid in full.

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

(2) If the Board disapproves a prospective purchaser for reasons other than that which is stated in D(1) above, the Association shall have the optional right of first refusal to purchase the unit on the same terms and conditions as the offer of the disapproved purchaser, unless the selling price is reasonably questioned as being bona fide, in which event the price to be offered shall be determined by taking the average price established by two Lee County property appraisers familiar with current condominium prices in Lee County, one appraiser to be selected by the selling owner and the other selected by the Board. The costs of the appraisals shall be shared equally by the owner and the Association. This right shall expire thirty (30) days after notice of disapproval is given. The closing shall take place within thirty (30) days of the Board's written notice to the owner of its intent to exercise the right to purchase.

(3) The board shall submit an offer by an approved purchaser to buy the unit on the same terms and conditions in the original purchase agreement, unless the selling price is reasonably questioned as being bona fide, in which event the price to be offered shall be determined by appraisal method shown under Section 12.3. Closing and transfer of the unit shall be within thirty (30) days from submission of the agreement to purchase by the Association or ten (10) days after the price is determined as provided, whichever occurs later.

(4) If the Board fails to submit an offer to purchase by an approved purchaser within sixty (60) days after giving notice of disapproval to the owner, then the original purchaser shall be deemed to be approved, despite the Board's former disapproval, and upon demand a Certificate of Approval shall be issued.

12.4 Exception. The provision of Sections 12.2 and 12.3 are not applicable to the acquisition of title by an approved mortgagee who acquires title through the mortgagee, whether by foreclosure or deed in lieu of foreclosure.

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

12.6 Transfer Fee. The Association may Charge a processing fee for the approval of transfers of title. The fee may not exceed the maximum permitted by law per transaction. The Association or its authorized agent may also charge a reasonable fee for the preparation of a certificate, commonly known as an estoppel certificate, stating all assessments and other monies owed to the Association by the Unit Owner with respect to the Condominium Parcel. The fee for the preparation of such certificate shall be

established by a written resolution of the Board or provided for in a management, bookkeeping, or maintenance contract.

13. LEASING OF UNITS: The control by the Association of the right of occupancy extends to all occupants of units. A unit owner may lease only his entire unit, and then only in accordance with the following provisions:

13.1 Procedures.

A. Notice. An owner intending to make a lease of his unit shall give to the Board of Directors or its designee written notice of such intentions at least five (5) days prior to the proposed transaction, together with a copy of the proposed lease and such other information as the Board may reasonably require. The Board may require a personal interview of any lessee and his spouse, if any, as a condition of approval. The Board of Directors may charge a nonrefundable fee for the approval of any lease under Article 13 in an amount up to that maximum amount authorized by Florida Law. Such fee shall be paid by the lessor at the time notice is given to the Association under Article 13.

B. Approval. After the required notice and all information or appearances requested, have been provided, the Board shall approve or disapprove the proposed lease within fifteen (15) days and shall provide written notice of such approval or disapproval to the owner. If the Board neither approves nor disapproves within the time stated above, such failure to act shall be deemed the equivalent of approval, and upon demand the Board shall issue written notice of approval to the owner.

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

- (i) The person seeking approval is not age fifty-five (55) or over.
- (ii) The person seeking approval (which shall hereinafter include all proposed Occupants) has been convicted of a crime involving violence to persons, a crime demonstrating dishonesty or moral turpitude or any felony;
- (iii) The application for approval on its face, facts discovered in connection with the Association's investigation, or the conduct of the applicant, indicate that the person seeking approval intends to conduct himself in a manner inconsistent with the Condominium Documents. By way of example, but not limitation, a Tenant taking possession of the premises prior to approval by the Association as provided for herein shall constitute a presumption that the applicant's conduct is inconsistent with the Condominium Documents and may constitute grounds for denial;
- (iv) The person seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in other housing facilities or associations, or by his conduct in this Condominium as a Tenant, Occupant or Guest;

(v) The Unit Owner or person seeking approval has failed to provide the information, fees, or appearances required to process the application in a timely manner;

(vi) All Assessments, fines and other Charges and monetary obligations against the Unit and/or Unit Owner have not been paid in full.

C. Failure to Give Notice. If proper notice is not given, the Association, at its election, may approve or disapprove the lease without proper notice. If it disapproves, the Association shall proceed as if it received notice on the date of such disapproval; however, the proposed lessee may provide the Board with the required notice and request reconsideration. Any lease entered into without approval or in violation of the above provision shall be treated as a nullity, and the Board shall have proceed as if it received notice on the date of such disapproval; however, the proposed lessee may provide the Board with the required notice and request reconsideration. Any lease entered into without approval or in violation of the above provisions shall be treated as a nullity, and the Board shall have the power to evict the lessee with three (3) days written notice, without securing consent to such eviction from the unit owner pursuant to Florida Law. The unit owner shall pay for all attorney's fees and costs incurred by the Association incident to said eviction.

D. Application for authority to lease shall be made to the Board of Directors on such forms and include such terms as the Board may, from time to time, provide. The legal responsibility for paying condominium assessments may not be delegated to the lessee.

E. To facilitate approval of leases proposed during times when many of the members are not in residence, the Board of Directors may, by resolution delegate its approval powers to an ad hoc committee as defined in paragraph 12.2(D).

F. In order to maintain the Condominium as a stable community of 55 and older homeowners, the number of leases to be authorized shall be no more than five at any point in time.

13.2 Term of Lease. No unit may be leased for a term of less than ninety (90) days. No sub-leasing or assignment of lease rights is permitted. If a unit owner desires to limit the number of overnight guests permitted in a leased unit, it shall be so stipulated in the terms of the lease agreement.

13.3 Occupancy During Lease Term. No one but the lessee and his immediate family as defined by Section 4.10 herein, may occupy the unit. The total number of occupants of a leased unit is limited to four (4) persons. Lessee shall have the same occupancy and use rights and duties as the owner of the unit would have and the unit owner shall not have such rights, except as a guest, unless such rights are waived in writing by the tenant. The owner shall retain his voting rights.

13.4 Regulation by Association. All of the provisions of the Condominium Documents and the Rules and Regulations of the Association pertaining to use and occupancy shall be applicable against any person occupying a unit as a lease or guest to the same extent as against an owner, and a covenant upon the part of each occupant to abide by the rules and regulations of the Association and the provisions of the condominium documents, and designating the Association as the owner's agent for the purpose of and with the authority to terminate any such occupancy agreement in the event of violations

by the tenant of such covenant, shall be an essential element of any occupancy agreement, whether written or oral, and whether specifically expressed in such agreement or not.

13.5 Liability. The liability of the Unit Owner under the Condominium Documents shall continue notwithstanding the fact that he may have leased or rented his interest in the Unit as provided herein.

13.6 Association Fee. The Unit Owner or Lessee seeking approval of a lease of a Unit shall pay a transfer fee for each applicant in an amount determined by the Board, which unless otherwise specified, shall be the maximum amount permitted by law. No charge shall be made in connection with an extension or renewal of a lease.

13.7 Security Deposit. The Board of Directors shall have the authority, as a condition of granting approval to a lease or renewal or extension thereof, to require that a prospective Lessee or Unit Owner place a security deposit in an amount not to exceed the equivalent of one month's rent into an escrow account maintained by the Association to protect against damage to the Common Elements or Association Property. Payment of interest, claims against the deposit, refunds, and disputes under this paragraph shall be handled in the same fashion as provided in Part II of Chapter 83 of the Florida Statutes as amended from time to time.

14. INSURANCE: The insurance, other than title insurance, which shall be carried upon the condominium property and the property of the unit owners shall be governed by the following provisions:

14.1 Authority to Purchase. All insurance policies upon the condominium property shall be purchased by the Association for the benefit of the Association and the unit owners and their mortgagees, as their interest may appear, and the provisions shall be made for the issuance of certificates of mortgagee endorsements to the mortgagees of unit owners. Such policies and endorsements shall be deposited with the Insurance Trustee. Unit owners may obtain insurance coverage at their own expense upon their personal property and for their personal liability and living expense. All policies purchased by the Association must be written by insurance companies authorized to do business in the State of Florida, and with offices or agents in Florida, provided, however, all such insurance policies must be accepted and approved by the institutional mortgagee holding the largest aggregate dollar sum of mortgages encumbering condominium parcels in the condominium, said sum to be ascertained at the time of purchase or renewal of each policy.

14.2 Coverage.

14.2.1 Casualty. All buildings and improvements upon the land, including units and all personal property of the Association included in the condominium property, are to be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, as determined annually by the Board of Directors of the Association, and all such insurance must be obtained, if possible, from the same company.

14.2.1.1 Except as otherwise provided herein, the Association shall obtain and maintain fire, wind, general property and extended coverage insurance with a responsible insurance company upon all of the Insurable Improvements of the entire Condominium, including

Association Property, the Common Elements, the Units, and the personal property of the Association, for the replacement value thereof, including coverage for changes in building codes, if reasonably available and determined commercially practicable by the Board, and less a commercially reasonable deductible as determined by the Board, provided the Board may exclude landscaping and exterior improvements not customarily insured by condominium associations in the locality, and foundation and excavation costs, in its discretion. The Association shall determine the replacement value of the Insurable Improvements through independent appraisal, at least every 36 months, so long as required by the Act. The Board shall establish deductibles, at a duly noticed meeting of the Board, and shall give notice of such meeting, and determine the deductibles, as required by the Act, so long as required by the Act. Notwithstanding the foregoing requirement, the Association, through its Board of Directors, will have fulfilled its duty to obtain insurance coverage if it obtains and maintains such insurance coverage as may be reasonably available from time to time given market and economic conditions, provided such coverage shall always meet the minimum level of adequate coverage required by Section 718.111(11), Florida Statutes, as amended from time to time. The original policy of insurance shall be held by the Association, and mortgagees shall be furnished, upon request, mortgage endorsements covering their respective interests. The word "Building" or "Insurable Improvement" in every property insurance policy issued to protect a Condominium building does not include: personal property in the Unit or Limited Common Elements; Unit floor, wall, or ceiling coverings; Unit or balcony electrical fixtures; appliances; water heaters; water filters; built-in cabinets or countertops; window treatments, including curtains, drapes, blinds, hardware and similar window treatment components; and replacements of any of the foregoing, which are located within the boundaries of a Unit and serve only one Unit. The Unit Owners shall also be responsible to insure all alterations, modifications or additions made to the Unit, Limited Common Elements, or Common Elements by said Unit Owner, or his predecessor in interest or title.

14.2.2 Public Liability. The Association shall obtain and maintain public liability insurance covering all of the Common Elements and Association Property and insuring the Association and the Unit Owners as their interest may appear in such amount as the Board of Directors may deem appropriate. The Board of Directors shall have authority to compromise and settle all claims against the Association or upon insurance policies held by the Association. The Unit Owners shall have no personal liability upon such claims, except as may be otherwise provided by law, and nothing herein contained shall in any way be construed as imposing upon the Association a duty to assess Unit Owners for the purpose of raising sufficient funds to discharge any liability in excess of insurance coverage.

14.2.3 Workmen's Compensation. As shall be required to meet the requirements of law, or deemed advisable by the Board.

14.2.4 Association Insurance. Such other insurance as the Board of Directors of the Association, in its discretion, may determine from time to time to be in the best interest of the Association and the unit owners, including Directors' Liability Insurance, insurance for the benefit of its employees, or other insurance that an institutional mortgagee may reasonably require so long as it is the owner of a mortgage on any condominium parcel.

14.2.5 Fidelity Bond. The Association shall obtain and maintain insurance or fidelity bonding of all persons who control or disburse funds of the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. As used in this paragraph, the term "persons who control or disburse funds of

the association” includes, but is not limited to, those individuals authorized to sign checks on behalf of the Association, and the President, Secretary, and Treasurer of the Association.

14.3 Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association, as a common expense.

14.4 Assured. All insurance policies purchased by the Association shall be for the benefit of the Association and the unit owners and their mortgagees as their interest may appear and shall provide that all proceeds covering casualty losses shall be paid to any national bank in Lee or Collier Counties, with trust powers, as may be approved and designated insurance trustee by the Board of Directors of the Association, which trustee is herein referred to as the “Insurance Trustee”.

The Insurance Trustee shall not be liable for payments of premiums, nor for the renewal or sufficiency of the 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 hold same in trust for the purposes elsewhere stated herein and for the benefit of the unit owners and their mortgagees in the following shares, but which shares need not be set forth in the records of the Insurance Trustee.

14.4.1 Common Elements. Proceeds on account of common elements shall be held in as many undivided shares as there are units in the condominium, the shares of each unit owner being the same as his share in the common elements, as same are hereinabove stated.

14.4.2 Units. Proceeds on account of units shall be held in the following undivided shares:

14.4.2.1 Partial Destruction. When the building is to be restored, for the owners of damaged units in proportion to the cost of repairing the damage suffered by each unit owner.

14.4.2.2 Total Destruction. When the building is to be restored, for the owners of all units in the building in proportion to their share of the common elements appurtenant to their unit.

14.4.2.3 Mortgagee. In the event a mortgagee endorsement has been issued as to a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interest appear. In no event shall any mortgagee have the right to demand the application of insurance proceeds to any mortgage or mortgages which it may hold against units, except to such extent as said insurance proceeds may exceed the actual cost of repair or restoration of the damaged building or buildings, and no mortgagee shall have any right to participate in the determination as to whether or not improvements will be restored after casualty.

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

14.5.1 Expense of the Trust. All expenses of the Insurance Trustee shall be first paid or provisions made therefor.

14.5.2 Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the costs thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by such mortgagee.

14.5.3 Failure to Reconstruct or Repair. If it is determined that the damages for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by such mortgagee.

14.5.4 Certificate. In making distribution to unit owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association made by the President and Secretary as to the names of the unit owners and their respective shares of the distribution.

14.5.5 Association as Agent. The Association is hereby irrevocably appointed agent for each unit owner to adjust all claims arising under insurance policies purchased by the Association.

15. CONDEMNATION

15.1 Deposit of Awards with Insurance Trustee. The taking of all or any part of the condominium property by condemnation or eminent domain shall be deemed to be a casualty to the portion taken, and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty. Even though the awards may be payable to unit owners, the unit owners shall deposit the awards with the Association; and if any fail to do so, a special assessment shall be made against a defaulting unit owner in the amount of his award, or the amount of that award shall be set off against any sums 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 a casualty.

15.3 Disbursement of Funds. If the condominium is terminated after condemnation, the proceeds of all awards and special assessments will be deemed to be condominium property and shall be owned and distributed in the manner provided for insurance proceeds when the condominium is terminated after a casualty. If the condominium is not terminated after condemnation, the size of the condominium will be reduced, the owners of condemned units, if any, will be made whole, and any property damaged by the taking will be made usable in the manner provided below. Proceeds of awards and special assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursements of funds after a casualty.

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

15.5 Units Reduced but Tenantable. If the taking reduces the size of a unit and the remaining portion of the unit can be made tenantable, the awards for the taking of a portion of that unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the condominium:

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

B. Distribution of Surplus. The balance of the award, 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 mortgagees.

C. Adjustment of Shares in Common Elements. If the floor area of a unit is reduced by the taking, the number representing the share in the common elements appurtenant to the unit shall be reduced in the proportion by which the floor area of the unit is reduced by the taking, and then the shares of all unit owners in the common elements shall be restated as percentages of the total of the numbers representing their original shares as reduced by the taking.

15.6 Units Made Untenantable. If the taking is of any entire unit or so reduces the size of a unit that it cannot be made tenantable, the award for the taking of the unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the condominium:

A. Payment of Award. The fair market value of the unit as determined pursuant to the guidelines set forth in Section 16.6E herein, immediately prior to the taking shall be paid to the owner of the unit and to each mortgagee of the unit, the remittance being made payable jointly to the owner and mortgagee(s).

B. Addition to Common Elements. If possible and practical, the remaining portion of the unit shall become a part of the common elements and shall be placed in condition for use by all unit owners in the manner approved by the Board of Directors.

C. Adjustment of Shares in the Common Elements. The shares in the common elements appurtenant to the units that continue as part of the condominium shall be adjusted to distribute the ownership of the common elements among the reduced number of unit owners. This shall be done by restating the shares of continuing unit owners in the common elements as percentages of the total of the numbers representing the shares of these as they existed prior to the adjustment.

D. Assessments. If the amount of the award for the taking is not sufficient to pay the fair market value of the condemned unit to the unit owner and to condition the remaining portion of the unit for use as a part of the common elements, the additional funds required for those purposes shall be raised by special assessment against all of the unit owners who will continue as owners of any unit after the changes in the condominium effected by the taking. The assessments shall be made in proportion to the shares of those owners in the common elements after the changes effected by the taking.

E. Arbitration. If the fair market value of a unit prior to the taking cannot be determined by agreement between the unit owner and the Association within thirty (30) days after notice by either party, the value shall be determined by appraisal in accordance with the following: The unit owner, the first mortgagee, if any, and the Association shall each appoint one Collier County or Lee County Property Appraiser, who shall appraise the unit and shall determine the fair market value by computing the arithmetic average of their appraisals of the unit; and a judgment of specific performance upon the value arrived at by the appraisers may be entered in any court of competent jurisdiction. The cost of the appraisal shall be paid by the party selecting the appraiser.

15.7 Taking of Common Elements. Awards for the taking of common elements shall be used to make the remaining portion of the common elements usable in the manner approved by the Board of Directors. The balance of such awards, if any, shall be distributed to the unit owners in the shares in which they own the common elements after adjustment of these shares on account of the condemnation. If a unit is mortgaged, the remittance shall be paid jointly to the owner and mortgagee(s) of the unit. However, all remittance to mortgagee(s) shall be used solely to reduce the principal mortgage balance.

15.8 Amendment of Declaration. The changes in units, in the common elements and in the ownership of the common elements that are necessitated by condemnation shall be evidenced by an amendment of the Declaration of Condominium that need be approved only by a majority of all Directors of the Association.

16. TERMINATION: The condominium may be terminated in the following manner.

16.1 Agreement. The condominium may be terminated at any time by approval, in writing, of the owners of one-hundred percent (100%) of the units and of the Primary Institutional First Mortgagee.

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

- the total estimated cost of repairs necessary to restore the improvements to their former condition or bring them into compliance with applicable laws or regulations exceeds the combined fair market value of all Units in the Condominium after completion of the repair; or
- it becomes impossible to operate or reconstruct the Condominium in its prior physical configuration because of land use laws or regulations.

It is the intent of this provision to incorporate Section 718.117(2), Florida Statutes, as amended from time to time.

16.1.2 Optional Termination. Except as provided in Article 16.1.1, the Condominium form of ownership may be terminated pursuant to a plan of termination approved by at least eighty percent (80%) of the total Voting Interests of the Condominium if not more than ten percent (10%) of

the total Voting Interests of the Condominium have rejected the plan of termination by negative vote or by providing written objections thereto. It is the intent of this provision to incorporate the provisions of Section 718.117(3), Florida Statutes, as amended from time to time.

16.2 Very Substantial Damage. If the condominium, as a result of common casualty, be damaged to the extent whereby three-fourths (3/4) or more of the total units are rendered uninhabitable then:

A. The Board of Directors of the Association shall promptly obtain reliable and detailed estimates of the cost of repair and restoration thereof.

B. A membership meeting shall be called by the Board of Directors to be held not later than twenty (20) days after all estimates have been received to determine the wishes of the membership with reference to rebuilding or termination of the condominium project, subject to the following:

(1) If the net insurance proceeds available for restoration and repair are sufficient to cover the cost thereof, so that no special assessment is required, then the condominium property shall be restored or repaired unless two-thirds (2/3) of the entire voting membership shall vote for termination, or unless the then applicable zoning or other regulatory laws will not allow reconstruction of the same number and general type of unit, in which case the condominium shall be terminated.

(2) If the net insurance proceeds available for restoration and repair are not sufficient to cover the cost thereof so that a special assessment will be required, then unless two-thirds (2/3) of the voting interests vote in favor of such special assessment and against termination of the condominium project, it shall be terminated and the property removed from the provisions of the Condominium Act. If two-thirds (2/3) of the voting interests vote in favor of such special assessment, the Association, through its Board, shall levy such assessment and shall proceed to negotiate and contract for such repairs and restoration. The special assessment shall be delivered by the Association to the insurance trustee and added by the trustee to the proceeds available for repair and restoration of the property.

C. If any dispute shall arise as to whether "very substantial" damage has occurred, a determination by a majority of the Board of Directors shall be binding upon all unit owners.

16.3 Application of Insurance Proceeds. ~~If~~ It shall be presumed that the first monies disbursed for repair and restoration shall be from the insurance proceeds. If there is a balance in the funds held by the insurance trustee after the payment of all costs or repair and restoration such balance shall be distributed to the unit owners.

16.4 Equitable Relief. In the event of very substantial damage to the condominium property, and if the property is not repaired, reconstructed, or rebuilt within a reasonable period of time, any unit owner may petition a court for equitable relief, which may include a termination of the condominium and a partition. For the purposes of this provision, it shall be presumed that repair, reconstruction or rebuilding has occurred within a "reasonable period of time" if substantial work is commenced within six (6) months following the damage or destruction and is completed within twelve (12) months after

commencement of work. The fact that a unit is untenable does not excuse the owner from paying assessments for common expense.

16.5 Plans and Specifications. Any reconstruction or repairs must be substantially in accordance with the plans and specification approved by the Board of Directors of the Association and by the owners of two-thirds (2/3) of the units, including the owners of all damaged units, together with the approval of any mortgagee holding a first mortgage upon a damaged unit, which approval shall not be unreasonably withheld.

16.6 General Provisions. Upon termination, the owners shall be the owners as tenants in common of the condominium property and the assets of the Association. The shares of such tenants in common shall be the same as were their shares of the common elements. The mortgagee or lienor of a unit owner, shall have a mortgage or lien solely and exclusively upon the undivided share of such tenant in common in and to the lands and other properties and rights which he may receive by reason of such termination. The termination of the condominium shall be evidenced by a certificate of the Association executed by its President and Secretary certifying as to facts affecting the termination, which certificate shall become effective upon being recorded in the Public Records of Lee County, Florida.

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

16.8 Partition and Sale. Following termination, the condominium property may be partitioned and sold upon the application of any unit owner. If following a termination, the owners of seventy-five percent (75%) of the units determine to accept an offer for the sale of the condominium property, each owner shall be bound to execute deeds and other documents reasonably required to effect the sale. In such event, any action for partition of the condominium property shall be held in abeyance pending the sale, and upon the consummation of the sale, shall be discontinued by all parties thereto.

16.9 Last Board. The members of the last Board of Directors shall continue to have the powers granted in this declaration for the purpose of winding up the affairs of the Association, notwithstanding the fact that the Association itself may be dissolved upon a termination.

17.0 OBLIGATIONS OF OWNERS.

17.1 Each unit owner, his tenants and guests, and the Association, shall be governed by and shall comply with the provisions of the Federal Fair Housing Act of 1998, the Florida Condominium Act, Section 718 of the Florida Statutes, the Florida Corporation law, including Section 617, Florida Statutes, the Declaration of Condominium, the documents creating the Association, the By-Laws, and the Condominium Rules and Regulations and all amendments thereto and restatements thereof. It shall be the responsibility of the Board to review the governing Federal and State statutes and make changes in the Condominium documents as necessary to keep current with the governing laws. These updates and changes in the documents shall be provided by the Board to the members in the form of addends to the Rules and Regulations. A direct action for damages or for injunctive relief, or both, or for failure to comply with these provisions may be brought by the Association or by a unit owner against:

- A. The Association;

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

17.2 A provision of the Florida Condominium Act may not be waived by a unit owner if the waiver would adversely affect the rights of the owner or defeat the purpose of the provision, except that unit owners or members of the Board of Directors may waive notice of specific meetings in writing as provided by the By-Laws. Any instrument given in writing by the unit owner to an escrow agent may be relied upon by an escrow agent, whether or not such instruction and the payment of funds thereafter might constitute a waiver of any provision of the Condominium Act.

17.3 Attorney's Fees and Costs. In any legal proceeding arising out of an alleged failure of a tenant of a unit owner, unit owner or the Association to comply with the requirements of the Condominium Act or the Condominium Documents, (including the Declaration of Condominium, By-Laws, Articles of Incorporation and Rules and Regulations) as they may be amended from time to time, the prevailing party shall be entitled to recover all costs of the proceeding and such reasonable attorney's fees as may be awarded by the court.

17.4 No Waiver of Rights. The failure of the Association or of a member to enforce any right, provision, covenant or condition which may be granted by the condominium documents shall not constitute a waiver of the right of the Association or member to enforce such right, provision, covenant or condition in the future.

17.5 No Election or Remedies. All rights, remedies and privileges granted to the Association or unit owners, 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 not be deemed to constitute an election of remedies, nor shall it preclude a party from exercising such other and additional rights, remedies, or privileges as may be granted by the Condominium Documents, or at law or in equity.

17.6 Notice of Lien or Suit.

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

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

C. Failure to Comply. Failure to comply with this section will not affect the validity of any judicial suit.

17.7 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 the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or other owners or persons.

17.8 Restraint Upon Assignment of Shares in Assets. The shares of members in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance.

17.9 Approval or Disapproval of Matters. Whenever the decision of a unit owner is required upon matter, whether or not the subject of an Association meeting, such decision shall be expressed in accordance with the By-Laws of the Association.

18. RIGHTS OF MORTGAGEES

18.1 Approvals. Prior written approval of the record holder of a first mortgage lien on a unit in the condominium shall be required:

A. For the abandonment or termination of the condominium except for that provided in the case of substantial destruction by fire or by other casualty, or in the case of a taking by condemnation or eminent domain;

B. For any amendment to the Declaration which would decrease the percentage interests of the unit in the ownership of the condominium.

19. AMENDMENT OF DECLARATION

19.1 Method. Except as otherwise provided, this Declaration may be amended if the amendment is approved by not less than sixty-six and two-thirds percent (66 2/3 %) of the voting interests present, either in person or by proxy, at any annual or special meeting.

19.2 Certificate. An amendment shall be evidenced by a certificate of the Association which shall include the recording data identifying the Declaration and shall be executed in the form required for the execution of a deed.

19.3 Effective Date. An amendment to the Declaration of Condominium is effective when properly recorded in the Public Records of Lee County, Florida.

19.4 Proviso. No amendment may change the configuration or size of any condominium unit in any material fashion, materially alter or modify the appurtenances to a unit, or change the proportion or percentage by which an owner of the parcel shares the common expenses and owns the common surplus, unless the record owner of the unit and all record owners of liens on it join in the execution of the amendment and unless all the record owners of all other units approve the amendment. This section shall not apply to changes caused by condemnation or a taking by eminent domain as provided in this Declaration.

19.5 Enlargement of Common Elements. The common elements designated by the Declaration may be enlarged by amendment of the Declaration. The amendment must describe the interest in the property and must submit the property to the terms of the Declaration.

19.6 Correction of Errors. If there is an omission or error in this Declaration of Condominium or in other documents required by Florida Law to establish a condominium, the Association may correct the error or omission by any and all procedures set forth in the Condominium Act.

19.7 Exceptions. Whenever in this Declaration the consent, approval or affirmative vote of more than a majority of all unit owners, is required in order to take a particular action, the section requiring the particular number of consents, approvals, or votes may not be amended except by the same vote required to take the action.

20. MISCELLANEOUS

20.1 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 By-Laws, the Rules and Regulations of the Association, and any exhibit attached hereto, shall not affect the remaining portions thereof.

20.2 Applicable Statutes. The validity, application, and construction of this Declaration and its exhibits shall be governed by the Federal Fair Housing Act of 1988 and the Laws of Florida, particularly the Condominium Act, Section 718, Florida Statutes, as it may be amended from time to time.

20.3 Conflicts. In the event of a conflict between any provision of this Declaration and the Federal Fair Housing Act and the Condominium Act, the Fair Housing Act and the Condominium Act, Section 718, Florida Statutes, shall control. In the event of a conflict between this Declaration and the Association's By-Laws, the Declaration of Condominium shall control.

20.4 Interpretation. The Board of Directors of the Association shall be responsible for interpreting the provisions of this Declaration and of any exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable.

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

21. RECONSTRUCTION AFTER CASUALTY. If any part of the Condominium Property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner.

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

21.2 The Building.

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

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

21.2.3 Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original Building, as set forth in the plans and specifications for the Building, or if not, then according to plans and specifications approved by the Board of Directors, regardless of whether it is a material alteration or substantial addition as described in Article 9.8 and no vote of the Unit Owners shall be required.

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

21.3 Responsibility. All reconstruction work after a casualty for damaged items that the Association insures shall be undertaken by the Association, except that a Unit Owner may undertake reconstruction work on portions of the Unit with the prior written consent of the Board of Administration. However, such work, and the disbursement of insurance proceeds, may be conditioned upon the approval of the repair methods, the qualifications of the proposed contractor, the contract that is used for that purpose, and reasonable verification of appropriate steps to ensure that the work is done and that the contractor is paid for the performance of said work. Unit Owners shall be responsible for reconstructing those items that the Unit Owners are required to insure. All required governmental permits and approvals must be obtained prior to commencing reconstruction. Assessments for the cost of the work shall be set forth in Article 21.5 below. If an Owner fails to repair and reconstruct those items that the Unit Owner is responsible for under this Declaration, the Association shall have, without waiver of other remedies, the right to proceed in accordance with Article 9.9, in which event the Unit Owner shall be charged for the costs of such activities (including attorney's fees incurred by the Association) by the Association which shall be secured by such rights as exist for collecting Common Expenses under these Condominium Documents i.e., a Lien for Charges.

21.4 Estimates of Costs. After a determination is made to rebuild or repair damage to property for which the Association or Unit Owner has the responsibility of reconstruction and repair, the

Association or Unit Owner shall obtain promptly reliable and detailed estimates of the cost to rebuild or repair.

21.5 Assessments. The cost of reconstruction after casualty for those portions of the Condominium Property required to be insured by the Association shall be considered a Common Expense, pursuant to Section 718.111(11)(j), Florida Statutes, as amended from time to time.

21.6 Termination of Condominium if Not Reconstructed. If the Owners vote not to reconstruct the Condominium by vote described in Article 21.2.2 hereof, the Condominium shall be terminated in accordance with the procedures set forth in Article 16 hereof.

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

21.7.1 To determine after a casualty whether the Units can be safely occupied, which decision shall not be conclusive as to the determination of habitability in Article 21.2. Such decision shall be based upon the advice of emergency management officials or a licensed professional.

21.7.2 To declare any portion of the Condominium Property or Association Property unavailable for occupation by Owners, Family members, Tenants, or Guests after a casualty, including during the rebuilding process. Such decision by the Board shall be based upon the advice of emergency management officials or a licensed professional (such as an engineer) and can be made only if necessary to protect the health, safety, or welfare of the Association, Owners, Family members, Tenants, or Guests.

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

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

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

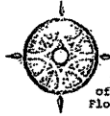
21.7.6 To adopt, by Board action, emergency assessments with such notice deemed practicable by the Board.

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

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

21.7.9 To exercise all emergency powers set forth in the Act.

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WILSON, MILLER, BARTON, SOLL & PEEK, INC.
PROFESSIONAL ENGINEERS, PLANNERS AND LAND SURVEYORS

EXHIBIT A

Description of part of Lot 1 and part of Lot 2
of Bonita Farms (Plat Book 3, page 27), Lee County,
Florida, Phase I, Forest Creek Villas, a Condominium

OFF
NO. 1705 re 2734

(Ordered by Mr. Homer Brown)
(Not Surveyed)

All that part of Lot 1 and all that part of Lot 2 of Bonita Farms, according to the plat thereof as recorded in Plat Book 3, page 27, Lee County Public Records, Lee County, Florida and being more particularly described as follows: Commencing at the northeast corner of Section 35, Township 47 South, Range 25 East, Lee County, Florida:

thence along the east line of Lot 1 of said Bonita Farms, South 0°-04'-54" West 429.84 feet;

thence along the north line of the south 207 feet of the east 175 feet of said Lot 1, North 89°-45'-11" West 25.00 feet to the POINT OF BEGINNING of the parcel herein described;

thence continue along said north line being the north line of those lands as described in O.R. 1531, pg. 892 and O.R. 1430, pg. 423, Lee County Public Records, Lee County, Florida, North 89°-45'-11" West 150.00 feet;

thence along the west line of said described lands, South 0°-04'-54" West 207.00 feet to the south line of said Lot 1;

thence along said south line and the south line of Lot 2 of said Bonita Farms, North 89°-45'-11" West 226.50 feet;

thence along the east line of those lands as described in O.R. 1245, pg. 698, Lee County Public Records, Lee County, Florida, North 0°-03'-15" East, 150.00 feet;

thence along the north line of said described lands, North 89°-45'-11" West 57.00 feet;

thence North 0°-14'-49" East 40.00 feet;

thence North 89°-45'-11" West 15.00 feet;

thence North 0°-14'-49" East 20.00 feet;

thence South 89°-45'-11" East 15.00 feet;

thence North 0°-14'-49" East 6.43 feet to a point on a curve;

thence northeasterly, 88.84 feet along the arc of a non-tangential circular curve concave to the northwest, having a radius of 138.71 feet, through a central angle of 36°-41'-42" and being subtended by a chord which bears North 64°-20'-51" East 87.33 feet;

thence North 46°-00'-00" East 113.55 feet;

thence South 44°-00'-00" East 76.93 feet;

thence North 90°-00'-00" East 69.53 feet;

thence North 00°-00'-00" East 105.85 feet;

thence North 90°-00'-00" East 150.25 feet;

thence South 00°-04'-54" West 178.50 feet to the Point of Beginning of the parcel herein described;

subject to easements and restrictions of record.

WILSON, MILLER, BARTON, SOLL & PEEK, INC.
Reg. Engineers and Land Surveyors

Wilbur H. Christianson, Jr. Date: 1/5/83
Wilbur H. Christianson, Jr., L.S. No. 2765

Not valid unless embossed with the Professional's Seal.

W.O. 21014

No: 4K-51

Date: January 4, 1983

EXHIBIT

A

tabbles

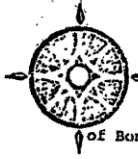


EXHIBIT I

WILSON, MILLER, BARTON, SOLL & PEEK, INC. ^{OFF} 1705 ^{PC} 2765
PROFESSIONAL ENGINEERS, PLANNERS AND LAND SURVEYORS

Description of part of Lot 1 and part of Lot 2
of Bonita Farms (Plat Book 3, page 27), Lee County, Florida
Phase II, Forest Creek Villas, a Condominium

(Ordered by Mr. Homer Brown)
(Not Surveyed)

All that part of Lot 1 and all that part of Lot 2 of Bonita Farms, according to the plat thereof as recorded in Plat Book 3, page 27, Lee County Public Records, Lee County, Florida and being more particularly described as follows:
Commencing at the northeast corner of Section 35, Township 47 South, Range 25 East, Lee County, Florida;
thence along the east line of Lot 1 of said Bonita Farms South 0°-04'-54" West 429.84 feet;
thence along the north line of the south 207 feet of the east 175 feet of said Lot 1, North 89°-45'-11" West 25.00 feet;
thence North 0°-04'-54" East 178.50 feet to the POINT OF BEGINNING of the parcel herein described;

- thence North 90°-00'-00" West 150.25 feet;
- thence South 00°-00'-00" East 105.85 feet;
- thence North 90°-00'-00" West 69.53 feet;
- thence North 44°-00'-00" West 76.93 feet;
- thence South 46°-00'-00" West 113.55 feet;
- thence North 44°-00'-00" West 75.00 feet;
- thence North 46°-00'-00" East 13.72 feet;
- thence North 44°-00'-00" West 86.00 feet;
- thence North 00°-00'-00" East 93 feet more or less to the centerline of Leitner Creek;

thence northeasterly, easterly, southeasterly and northeasterly 505 feet more or less along the centerline of said Leitner Creek to a point on a line which bears North 0°-04'-54" East from the Point of Beginning;
thence along said line South 0°-04'-54" West 197.00 feet more or less to the Point of Beginning of the parcel herein described;

subject to easements and restrictions of record.

WILSON, MILLER, BARTON, SOLL & PEEK, INC.
Reg. Engineers and Land Surveyors

By Wilbur M. Christiansen, Jr. Date: 1/5/83
Wilbur M. Christiansen, Jr., P.L.S. No. 2765

Not valid unless embossed with the Professional's Seal.

W.O. 21014

Ref: 4K-51

Date: January 4, 1983

OFF 1818 PC 2765



EXHIBIT I

REC 07790140

WILSON, MILLER, BARTON, SOLL & PEEK, INC.
PROFESSIONAL ENGINEERS PLANNERS AND LAND SURVEYORS

Description of part of Lot 2 and part of Lot 3
Bonita Farms (Plat Book 3, page 27), Lee County, Florida
Phase III, Forest Creek Villas, a Condominium

(Ordered by Mr. Homer Brown)
(Not Surveyed)

All that part of Lot 2 and all that part of Lot 3 of Bonita Farms, according to the plat thereof as recorded in Plat Book 3, page 27, Lee County Public Records, Lee County, Florida, and being more particularly described as follows:
Commencing at the northeast corner of Section 35, Township 47 South, Range 25 East, Lee County, Florida;
thence along the east line of Lot 1 of said Bonita Farms South 0°-04'-54" West 429.84 feet;
thence along the north line of the south 207 feet of the east 175 feet of said Lot 1, North 89°-45'-11" West 25.00 feet;
thence continue along said north line being the north line of those lands as described in O.R. 1531, page 882 and O.R. 1430, page 423, Lee County Public Records, Lee County, Florida, North 89°-45'-11" West 150.00 feet;
thence along the west line of said described lands, South 0°-04'-54" West 207.00 feet to the south line of said Lot 1;
thence along said south line and the south line of Lot 2 of said Bonita Farms, North 89°-45'-11" West 226.50 feet;
thence along the east line of those lands as described in O.R. 1245, page 698, Lee County Public Records, Lee County, Florida, North 0°-03'-15" East 150.00 feet;
thence along the north line of said described lands, North 89°-45'-11" West 57.00 feet to the POINT OF BEGINNING of the parcel herein described;
thence North 0°-14'-49" East 40.00 feet;
thence North 89°-45'-11" West 15.00 feet;
thence North 0°-14'-49" East 20.00 feet;
thence South 89°-45'-11" East 15.00 feet;
thence North 0°-14'-49" East 6.43 feet to a point on a curve;
thence northeasterly 88.84 feet along the arc of a non-tangential circular curve concave to the northwest, having a radius of 138.71 feet, through a central angle of 36°-41'-42" and being subtended by a chord which bears North 64°-20'-51" East 87.33 feet;
thence North 44°-00'-00" West 75.00 feet;
thence North 46°-00'-00" East 13.72 feet;
thence North 44°-00'-00" West 86.00 feet;
thence North 00°-00'-00" East 92.00 feet more or less to the center line of Leitner Creek;
thence along centerline of said Creek southwesterly, northwesterly and southwesterly 360.00 feet more or less;
thence South 02°-29'-13" East 130.00 feet more or less;
thence South 08°-51'-51" East 133.24 feet to a point in the east line of lands as described in O.R. 1245, page 698, Lee County Public Records, Lee County, Florida;
thence along the above east line South 89°-45'-11" East 274.34 feet to the Point of Beginning of the parcel herein described;

subject to easements and restrictions of record.

WILSON, MILLER, BARTON, SOLL & PEEK, INC.
Reg. Engineers and Land Surveyors

By F. Donald McKee Date: June 2, 1983
F. Donald McKee, P.L.S. No. 3955

Not valid unless embossed with the Professional's Seal.

W.O.#. 21566
June 2, 1983
Ref. 4K-51

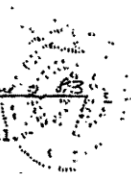


EXHIBIT I

LEGAL DESCRIPTION
PHASE IV

All that part of Lot 3 of Bonita Farms, according to the plat thereof as recorded in Plat Book 3, Page 27, Lee County Public Records, Lee County, Florida, and being more particularly described as follows:

Commencing at the northeast corner of Section 35, Township 47 South, Range 25 East, Lee County, Florida;
thence along the east line of Lot 1 of said Bonita Farms South 0°-04'-54" West 429.84 feet;
thence along the north line of the south 207 feet of the east 175 feet of said Lot 1, North 89°-45'-11" West 25.00 feet;
thence continue along said north line being the north line of those lands as described in O.R. 1531, page 882 and O.R. 1430, page 423, Lee County Public Records, Lee County, Florida, North 89°-45'-11" West 150.00 feet;
thence along the west line of said described lands, South 0°-04'-54" West 207.00 feet to the south line of said Lot 1;
thence along said south line and the south line of Lot 2 of said Bonita Farms, North 89°-45'-11" West 226.50 feet;
thence along the east line of those lands as described in O.R. 1245, page 698, Lee County Public Records, Lee County, Florida, North 0°-03'-15" East 150.00 feet;
thence along the north line of said described lands, North 89°-45'-11" West 331.34 feet to the POINT OF BEGINNING, of the parcel herein described;
thence North 08°-51'-51" West 133.24 feet;
thence North 02°-29'-13" West 130.00 feet more or less to the centerline of Leitner Creek;
thence along centerline of said Creek northwesterly, southwesterly and northwesterly 370.00 feet more or less to the west line of Lot 3 of said Bonita Farms;
thence along said west line, South 0°-03'-15" West 550.00 feet more or less to the northerly right-of-way line of Goodwin Street;
thence along said northerly right-of-way line, South 89°-45'-11" East 50.00 feet;
thence along a line 50 feet easterly of and measured at right angles to the westerly line of said Lot 3, North 0°-03'-15" East 150.00 feet;
thence south 89°-45'-11" East 198.22 feet to the Point of Beginning of the parcel herein described;
subject to easements and restrictions of record.

Exhibit B

REF 1705 REG 2735

SURVEYOR'S CERTIFICATE

FOREST CREEK VILLAS,
a CONDOMINIUM (Phase I)

I, JOSEPH S. BOGGS, (registered land surveyor No. 3516 State of Florida) a surveyor authorized to practice in the State of Florida, hereby certify that the construction of the improvements described in Exhibit B of the Declaration of Condominium of Forest Creek Villas, a Condominium (Phase I), attached hereto, consisting of TWO pages, is substantially complete so that the material, together with the provisions of the Declaration relating to matters of survey describing the condominium property is an accurate representation of the location and dimensions of the improvements, and that the identification, location and dimensions of the common elements, limited common elements and of each unit can be determined from these materials.

BRUCE GREEN & ASSOCIATES, INC.

Joseph S. Boggs
Joseph S. Boggs
Registered Land Surveyor No. 3516
State of Florida

Sworn to and subscribed before me this 18th day of
November, 1983.



Patricia Clayton
Notary Public
My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES SEPT 9 1985
BONDED BY THE GENERAL INS. UNDERWRITERS

EXHIBIT

B

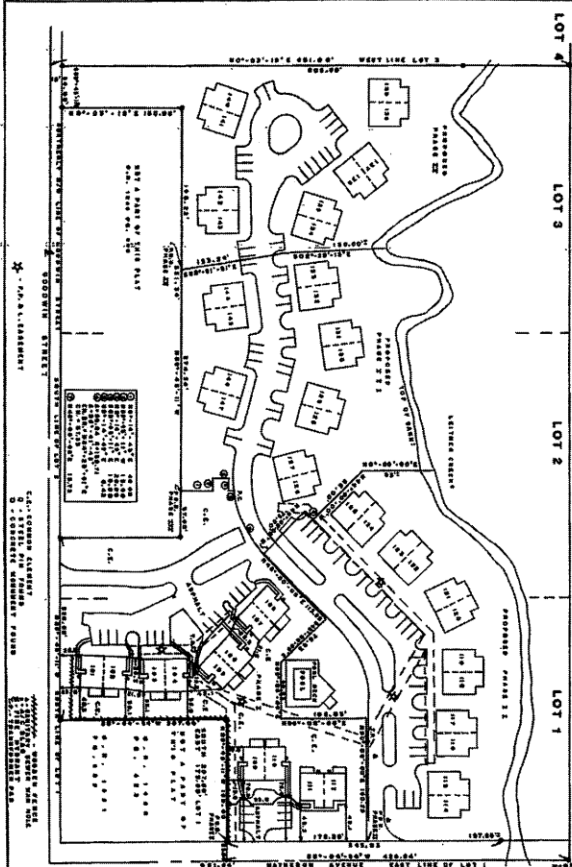
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Exhibit B

REF 1705 PC2736

FOREST CREEK VILLAS, A CONDOMINIUM PHASE I

CONDOMINIUM PLAT BOOK _____ PAGE _____



SURVEY & SITE PLAN
COURTESY OF

DESCRIPTION PHASE I

THIS PHASE I OF THE FOREST CREEK VILLAS CONDOMINIUM PLAT BOOK _____ PAGE _____ IS A SURVEY AND SITE PLAN FOR THE CONDOMINIUM PHASE I OF THE FOREST CREEK VILLAS CONDOMINIUM PLAT BOOK _____ PAGE _____.

THE TOTAL AREA OF THE FOREST CREEK VILLAS CONDOMINIUM PLAT BOOK _____ PAGE _____ IS 1.147 ACRES, MORE OR LESS, AS SHOWN ON THE SURVEY AND SITE PLAN FOR THE FOREST CREEK VILLAS CONDOMINIUM PLAT BOOK _____ PAGE _____.

THE FOREST CREEK VILLAS CONDOMINIUM PLAT BOOK _____ PAGE _____ IS A SURVEY AND SITE PLAN FOR THE CONDOMINIUM PHASE I OF THE FOREST CREEK VILLAS CONDOMINIUM PLAT BOOK _____ PAGE _____.

THE FOREST CREEK VILLAS CONDOMINIUM PLAT BOOK _____ PAGE _____ IS A SURVEY AND SITE PLAN FOR THE CONDOMINIUM PHASE I OF THE FOREST CREEK VILLAS CONDOMINIUM PLAT BOOK _____ PAGE _____.

THE FOREST CREEK VILLAS CONDOMINIUM PLAT BOOK _____ PAGE _____ IS A SURVEY AND SITE PLAN FOR THE CONDOMINIUM PHASE I OF THE FOREST CREEK VILLAS CONDOMINIUM PLAT BOOK _____ PAGE _____.

REPRODUCED HEREIN:
Legality of Making, Typing or Printing This Plan is Guaranteed by This Instrument When Recorded.

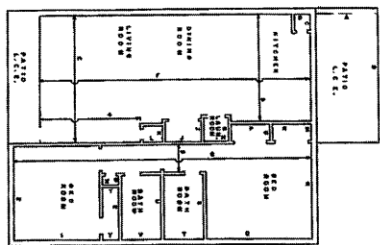
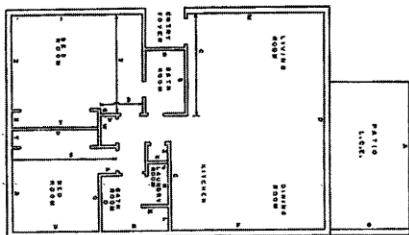


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Exhibit B

FOREST CREEK VILLAS, A CONDOMINIUM PHASE I

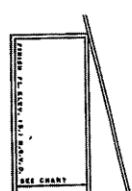
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TYPICAL FLOOR PLANS
EXHIBIT B
NOT TO SCALE

L.C.C., LIMITED - CROSS CHECKED

UNIT NO.	SQ. FT.	APPROXIMATE DIMENSIONS			UNIT NO.	SQ. FT.	APPROXIMATE DIMENSIONS		
		W	D	T			W	D	T
101	1,150	32	42	11	102	1,150	32	42	11
103	1,150	32	42	11	104	1,150	32	42	11
105	1,150	32	42	11	106	1,150	32	42	11
108	1,150	32	42	11	109	1,150	32	42	11
111	1,150	32	42	11	112	1,150	32	42	11
115	1,150	32	42	11	116	1,150	32	42	11
119	1,150	32	42	11	120	1,150	32	42	11
123	1,150	32	42	11	124	1,150	32	42	11
127	1,150	32	42	11	128	1,150	32	42	11
131	1,150	32	42	11	132	1,150	32	42	11
135	1,150	32	42	11	136	1,150	32	42	11
139	1,150	32	42	11	140	1,150	32	42	11
143	1,150	32	42	11	144	1,150	32	42	11
147	1,150	32	42	11	148	1,150	32	42	11
151	1,150	32	42	11	152	1,150	32	42	11
155	1,150	32	42	11	156	1,150	32	42	11
159	1,150	32	42	11	160	1,150	32	42	11



LONGITUDINAL SECTION
NOT TO SCALE

Sheet 2 of 2
L.C.C., LIMITED - CROSS CHECKED

RECOMMENDATION
Legality of Writing, Typing or Printing this Factory in this Document when necessary.

REC 1868PG0857

CERTIFICATE OF SURVEYOR

CERTIFICATE OF SURVEY made this 5th day of September, 1986.

This certificate is made as to Forest Creek Villas, a Condominium, (Phase II), located at Bonita Springs, Lee County, Florida, and in compliance with Section 718.104(4)(e), Florida Statutes (1986).

I, Joseph S. Boggs, a Land Surveyor authorized to practice in the State of Florida, hereby certify that the construction of all planned improvements, including but not limited to landscaping, utility services and access to the unit, and common element facilities, serving the building in which the units to be conveyed are located have been substantially completed, so that the material attached to the Declaration of Condominium as Exhibit B, together with the provisions of the Declaration describing the condominium property, is an accurate representation of the location and dimensions of the improvements, and that the identification, location, and dimensions of the common elements and of each unit can be determined from these materials.

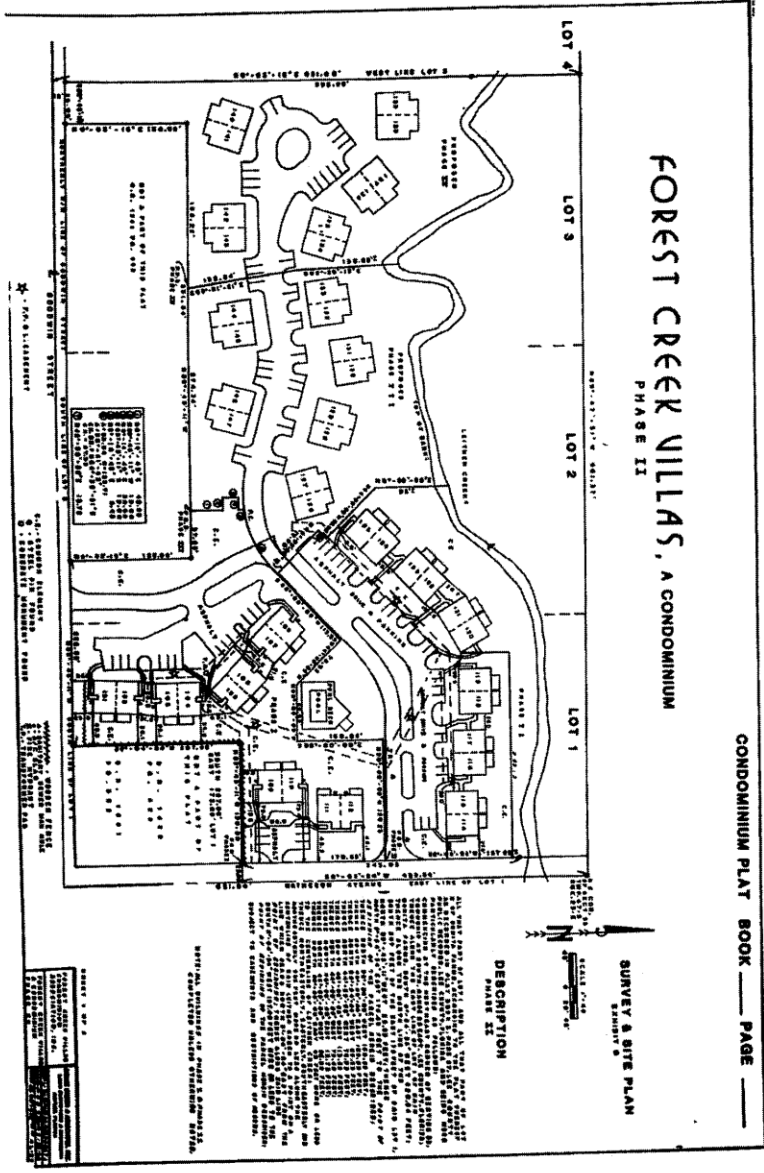
BRUCE GREEN & ASSOCIATES, INC.


Joseph S. Boggs
Florida Registered Surveyor No. 3516

FOREST CREEK VILLAS, A CONDOMINIUM

PHASE II

CONDOMINIUM PLAT BOOK PAGE



SURVEY & SITE PLAN
 EXHIBIT B

DESCRIPTION
 PHASE II

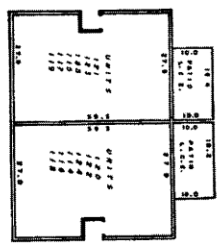
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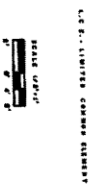
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RECORDS SECTION
LEI 15001712
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FOREST CREEK VILLAS, A CONDOMINIUM PHASE II

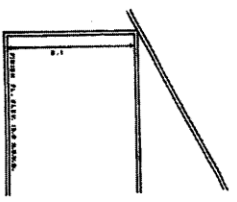
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TYPICAL UNIT BOUNDARY
EXHIBIT 2



UNIT 1 - LIMITED COMMON ELEMENTS



LONGITUDINAL SECTION
IN SCALE
ELEVATIONS BASED ON HORIZONTAL

OWNER	PROJECT	DATE	BY	SCALE	REVISIONS
BSA	FOREST CREEK VILLAS, PHASE II	10/15/85	J. W. ...	AS SHOWN	
DESIGNER	PROJECT	DATE	BY	SCALE	REVISIONS
...

RECORDERS MEMO.
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94960940

RECORDED IN THE PUBLIC RECORDS

OCT 23 10 30 AM '87

CERTIFICATE OF SURVEYOR

CERTIFICATE OF SURVEY made this 21st day of October, 1987.

This certificate is made as to Forest Creek Villas, A Condominium, (Phase III), located at Naples, Collier County, Florida, and in compliance with Section 718.104(4)(e), Florida Statutes (1985).

I, Joseph S. Boggs, a Land Surveyor authorized to practice in the State of Florida, hereby certify that the construction of all planned improvements, including but not limited to landscaping, utility services and access to the unit, and common element facilities, serving the building in which the units to be conveyed are located have been substantially completed, so that the material attached to the Declaration of Condominium as Exhibit B, together with the provisions of the Declaration describing the condominium property, is an accurate representation of the location and the dimensions of the improvements, and that the identification, location, and dimensions of the common elements and of each unit can be determined from these materials.

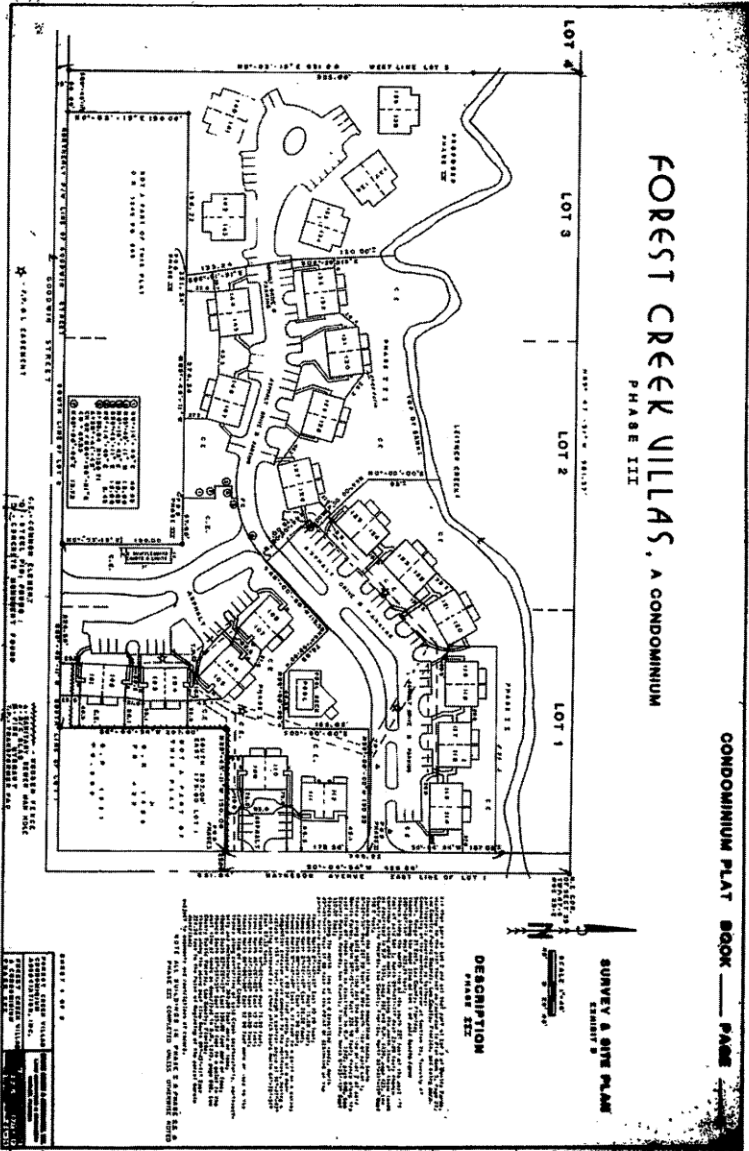
BRUCE GREEN & ASSOCIATES, INC.


Joseph S. Boggs
Florida Registered Surveyor No. 3516

This instrument prepared by:
K.W. Richman, Esq.
After Recording, please return to:
GILLETTE, PILON AND RICHMAN
Naples Federal Building - Suite 405
5801 Pelican Bay Boulevard
Naples, Florida 33963

FOREST CREEK VILLAS, A CONDOMINIUM PHASE III

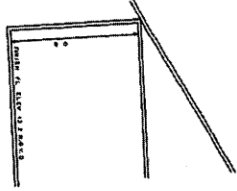
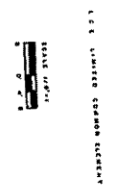
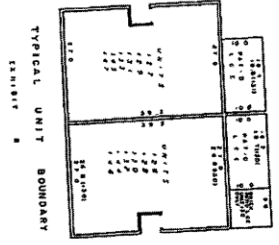
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FOREST CREEK VILLAS, A CONDOMINIUM PHASE III

CONDOMINIUM PLAT BOOK — PAGE



		FOREST CREEK VILLAS, A CONDOMINIUM PHASE III		CONDOMINIUM PLAT BOOK — PAGE	
UNIT NO. 101	UNIT NO. 102	UNIT NO. 103	UNIT NO. 104	UNIT NO. 105	UNIT NO. 106
UNIT NO. 107	UNIT NO. 108	UNIT NO. 109	UNIT NO. 110	UNIT NO. 111	UNIT NO. 112
UNIT NO. 113	UNIT NO. 114	UNIT NO. 115	UNIT NO. 116	UNIT NO. 117	UNIT NO. 118
UNIT NO. 119	UNIT NO. 120	UNIT NO. 121	UNIT NO. 122	UNIT NO. 123	UNIT NO. 124
UNIT NO. 125	UNIT NO. 126	UNIT NO. 127	UNIT NO. 128	UNIT NO. 129	UNIT NO. 130
UNIT NO. 131	UNIT NO. 132	UNIT NO. 133	UNIT NO. 134	UNIT NO. 135	UNIT NO. 136
UNIT NO. 137	UNIT NO. 138	UNIT NO. 139	UNIT NO. 140	UNIT NO. 141	UNIT NO. 142
UNIT NO. 143	UNIT NO. 144	UNIT NO. 145	UNIT NO. 146	UNIT NO. 147	UNIT NO. 148
UNIT NO. 149	UNIT NO. 150	UNIT NO. 151	UNIT NO. 152	UNIT NO. 153	UNIT NO. 154
UNIT NO. 155	UNIT NO. 156	UNIT NO. 157	UNIT NO. 158	UNIT NO. 159	UNIT NO. 160
UNIT NO. 161	UNIT NO. 162	UNIT NO. 163	UNIT NO. 164	UNIT NO. 165	UNIT NO. 166
UNIT NO. 167	UNIT NO. 168	UNIT NO. 169	UNIT NO. 170	UNIT NO. 171	UNIT NO. 172
UNIT NO. 173	UNIT NO. 174	UNIT NO. 175	UNIT NO. 176	UNIT NO. 177	UNIT NO. 178
UNIT NO. 179	UNIT NO. 180	UNIT NO. 181	UNIT NO. 182	UNIT NO. 183	UNIT NO. 184
UNIT NO. 185	UNIT NO. 186	UNIT NO. 187	UNIT NO. 188	UNIT NO. 189	UNIT NO. 190
UNIT NO. 191	UNIT NO. 192	UNIT NO. 193	UNIT NO. 194	UNIT NO. 195	UNIT NO. 196
UNIT NO. 197	UNIT NO. 198	UNIT NO. 199	UNIT NO. 200	UNIT NO. 201	UNIT NO. 202
UNIT NO. 203	UNIT NO. 204	UNIT NO. 205	UNIT NO. 206	UNIT NO. 207	UNIT NO. 208
UNIT NO. 209	UNIT NO. 210	UNIT NO. 211	UNIT NO. 212	UNIT NO. 213	UNIT NO. 214
UNIT NO. 215	UNIT NO. 216	UNIT NO. 217	UNIT NO. 218	UNIT NO. 219	UNIT NO. 220
UNIT NO. 221	UNIT NO. 222	UNIT NO. 223	UNIT NO. 224	UNIT NO. 225	UNIT NO. 226
UNIT NO. 227	UNIT NO. 228	UNIT NO. 229	UNIT NO. 230	UNIT NO. 231	UNIT NO. 232
UNIT NO. 233	UNIT NO. 234	UNIT NO. 235	UNIT NO. 236	UNIT NO. 237	UNIT NO. 238
UNIT NO. 239	UNIT NO. 240	UNIT NO. 241	UNIT NO. 242	UNIT NO. 243	UNIT NO. 244
UNIT NO. 245	UNIT NO. 246	UNIT NO. 247	UNIT NO. 248	UNIT NO. 249	UNIT NO. 250

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EXHIBIT II

CERTIFICATE OF SURVEYOR

CERTIFICATE OF SURVEY made this 21st day of October, 1987.

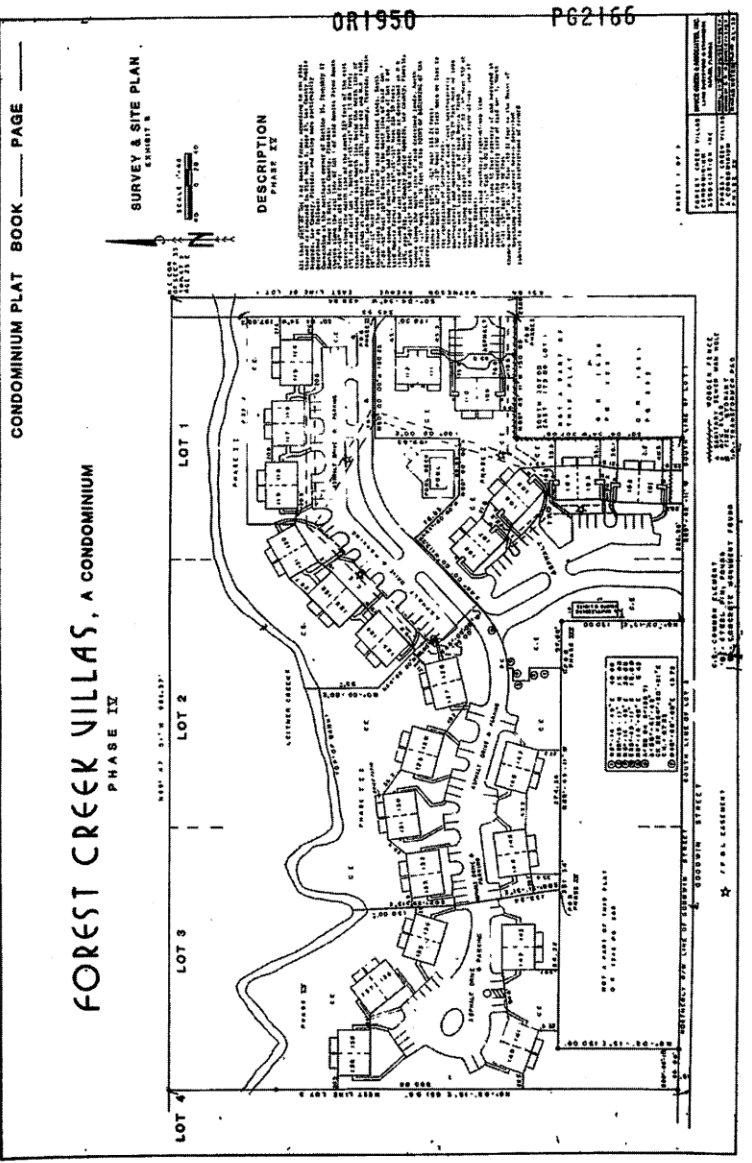
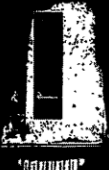
This certificate is made as to Forest Creek Villas, A Condominium, (Phase IV), located at Naples, Collier County, Florida, and in compliance with Section 718.104(4)(e), Florida Statutes (1986).

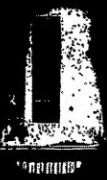
I, Joseph S. Boggs, a Land Surveyor authorized to practice in the State of Florida, hereby certify that the construction of all planned improvements, including but not limited to landscaping, utility services and access to the unit, and common element facilities, serving the building in which the units to be conveyed are located have been substantially completed, so that the material attached to the Declaration of Condominium as Exhibit B, together with the provisions of the Declaration describing the condominium property, is an accurate representation of the location and the dimensions of the improvements, and that the identification, location, and dimensions of the common elements and of each unit can be determined from these materials.

BRUCE GREEN & ASSOCIATES, INC.


Joseph S. Boggs
Florida Registered Surveyor No. 3516

RECORDERS MEMO.
 Legibility of Writing, Typing or Printing Unavailable in This Document When Received.



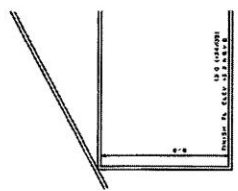


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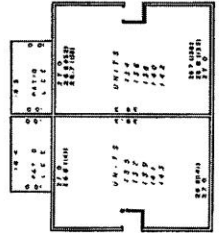
CONDOMINIUM PLAT BOOK PAGE

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FOREST CREEK VILLAS, A CONDOMINIUM
 PHASE IV



LONGITUDINAL SECTION
 NOT TO SCALE
 ELEVATIONS BASED ON MEASUREMENT



TYPICAL UNIT BOUNDARY
 EXHIBIT B

L.C.E. LIMITED CONCRETE CONCRETE



CONCRETE CURB

DATE	REVISION	BY	FOR	PROJECT	CONDOMINIUM PLAT	UNIT	NO.	OF	TOTAL
				FOREST CREEK VILLAS, A CONDOMINIUM PHASE IV					
				PREPARED BY	CONDOMINIUM PLAT				
				DESIGNED BY					
				CHECKED BY					
				APPROVED BY					
				DATE					



EXHIBIT III

FOREST CREEK VILLAS, a Condominium

Percentage of Ownership Interest in the Common Elements and Assessment Schedule.

The following is a schedule of the undivided interest that each of the apartment units has in the Common Elements, and Common Surplus of FOREST CREEK VILLAS, a Condominium, at the time of the addition of Phase 4, each unit shall be assessed a proportion of the expenses of the Common Elements in the same fractional share:

	<u>Units</u>	<u>Fractional Undivided Share</u>
PHASE 1	101	1/46th
	102	1/46th
	103	1/46th
	104	1/46th
	105	1/46th
	106	1/46th
	107	1/46th
	108	1/46th
	109	1/46th
	110	1/46th
	111	1/46th
	112	1/46th
PHASE 2	114	1/46th
	115	1/46th
	116	1/46th
	117	1/46th
	118	1/46th
	119	1/46th
	120	1/46th
	121	1/46th
	122	1/46th
	123	1/46th
	124	1/46th
	125	1/46th
PHASE 3	126	1/46th
	127	1/46th
	128	1/46th
	129	1/46th
	130	1/46th
	131	1/46th
	132	1/46th
	133	1/46th
	144	1/46th
	145	1/46th
	146	1/46th
	147	1/46th
PHASE 4	134	1/46th
	135	1/46th
	136	1/46th
	137	1/46th
	138	1/46th
	139	1/46th
	140	1/46th
	141	1/46th
142	1/46th	
143	1/46th	

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TABLE OF CONTENTS

*Amended and restated Articles of Incorporation
of Forest Creek Villas Condominium Association, Inc.*

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ARTICLE II Powers and Purpose	1
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AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF
FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION, INC.

Pursuant to Chapter 617, Florida Statutes, the Articles of Incorporation of FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION, INC., a Florida corporation, not for profit, filed with the Secretary of State, Tallahassee, Florida on January 13, 1988, are hereby amended and restated in their entirety. The Amended and Restated Articles of Incorporation of FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION, INC., shall henceforth be as follows:

ARTICLE I

NAME: The name of the corporation shall be FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION, INC.

ARTICLE II

PURPOSE AND POWERS: The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act (Chapter 718, Florida Statutes) for the operation of FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION, INC., located in Lee County, Florida.

The Association is organized on a non-stock basis and shall exist as a non-profit corporation under the laws of the State of Florida, and no portion of any earnings of the Association shall be distributed

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or inure to the private benefit of any member, Director, or officer of the Association. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not-for-profit under the laws of the State of Florida, except as limited or modified by these Articles, the Declaration of Condominium, the By-Laws or the Florida Condominium Act; and it shall have all of the powers and duties reasonably necessary to operate the condominium pursuant to the Declaration of Condominium as it may hereafter be amended, including but not limited to the following:

A. To make and collect assessments against members of the Association to defray the costs, expenses and losses of the condominium, and to use the proceeds of assessments in the exercise of its powers and duties.

B. To maintain, repair, replace and operate the condominium property.

C. To purchase insurance upon the condominium property for the protection of the Association and its members.

D. To reconstruct improvements after casualty and to make further improvements on the property.

E. To make, amend and enforce reasonable rules and regulations governing the use of the common elements.

F. To approve or disapprove the transfer, mortgage, ownership and occupancy of units, as provided by the Declaration of Condominium and the By-Laws.

G. To enforce the provisions of the Condominium Act (Chapter

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718, Florida Statutes), the Declaration of Condominium, these Articles, and the By-Laws of the Association.

H. To contract for the management and maintenance of the condominium and to delegate any powers and duties of the Association in connection therewith except such as are specifically required by the Declaration of Condominium to be exercised by the Board of Directors or the membership of the Association.

I. To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the condominium.

All funds and the title to all property acquired by the Association shall be held for the benefit of the members in accordance with the provisions of the Declaration of Condominium, these Articles of Incorporation and the By-Laws.

ARTICLE III

MEMBERSHIP:

A. The members of the Association shall consist of all record owners of a fee simple interest in one or more units in the condominium, and as further provided in the By-Laws, after termination of the condominium, the members shall consist of those who are members at the time of such termination.

B. After receiving approval of the Association as required by the Declaration of Condominium, change of membership shall be established by recording in the Public Records of Lee County, Florida, a

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deed or other instrument and by the delivery to the Association of a copy of such instrument.

C. The share of a member in the funds and assets of the Association cannot be assigned, or transferred in any manner except as an appurtenance to a unit.

D. The owners of each unit, collectively, shall be entitled to one vote in Association matters for each unit owned. The manner of exercising voting rights shall be as set forth in the By-Laws.

ARTICLE IV

TERM: The term of the Association shall be perpetual.

ARTICLE V

BY-LAWS: The By-Laws of the Association may be altered, amended, or rescinded in the manner provided therein.

ARTICLE VI

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

A. Proposal. Amendments to these Articles shall be proposed by a majority of the Board or upon petition of one-fourth (1/4) of the unit owners by instrument, in writing, signed by them.

B. Notice. Upon any amendment or amendments to these Articles being proposed by a unit owner, such proposed amendment or amendments

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shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall, thereupon determine which of the methods shown in (C) below shall be used for voting. The appropriate notices and copies of the proposed amendments shall be mailed to the members not less than thirty (30) days after transmittal to the President.

C. Except as otherwise provided for by Florida law, these Articles of Incorporation may be amended by vote of two-thirds (2/3) of the voting interests present and voting at any annual or special meeting, or by approval in writing of the owners of two-thirds (2/3) of the units without a meeting, provided that notice of any proposed amendment has been given to the members of the Association, and that notice contains a fair statement of the proposed amendment.

D. An amendment shall become effective upon filing with the Secretary of State and recording a certified copy in the Public Records of Lee County, Florida.

ARTICLE VII

DIRECTORS AND OFFICERS:

A. The affairs of the Association will be administered by the Board of Directors consisting of the number of Directors determined by the By-Laws, but not less than three (3) Directors. Directors must be members, or spouses of members, of the Association.

B. Directors of the Association shall be elected by the members in the manner determined by the By-Laws. Directors may be removed and

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vacancies of the Board of Directors shall be filled in the manner provided by the By-Laws.

C. The business of the Association shall be conducted by the officers designated in the By-Laws. The officers shall be elected by the Board of Directors at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board.

ARTICLE VIII

INDEMNIFICATION:

Each Director and Officer of this Corporation shall be indemnified by the Corporation against all costs and expenses reasonably incurred or imposed upon him in connection with or arising out of any action, suit or proceedings in which he may be involved or to which he may be made a party by reason of his having been a Director or Officer of this Corporation, such expense to include the cost of reasonable settlements (other than amounts paid to the Corporation itself) made with a view of curtailment of costs of litigation. The Corporation shall not, however, indemnify such Director or Officer with respect to matters as to which he shall be finally adjudged in any such action, suit or proceedings to be liable for negligence or misconduct in the performance of his duty as such Director or Officer, or in respect to any matter in which any settlement or compromise is effectuated if the total expense, including the cost of settlement, shall substantially exceed the expense which might reasonably be incurred by such Director

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or Officer in conducting such litigation to final conclusion, and in no event shall anything herein contained be construed as authorizing this Corporation to indemnify any such Director or Officer against any liability of the Corporation to which he would otherwise be subject by reason of willful malfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his office. The foregoing right of indemnification shall be in addition to any other rights to which any such Director or Officer may be entitled as a matter of law or otherwise.

ARTICLE IX

NO STOCK: Although the Association is a corporation, the Association shall never have or issue shares of stock and/or certificates of membership, nor will it ever provide for non-member voting.

ARTICLE X

AMENDMENT: These Articles of Incorporation may be altered or amended at any regular or special meeting of the voting unit owners, provided that: (1) notice of the meeting is given in the manner provided for in the By-Laws and that said notice contains a full statement of the proposed alteration or amendment; and (2) the proposed alteration or amendment is approved by the affirmative vote of two-thirds (2/3) of all unit owners.

ARTICLE XI

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BOARD OF DIRECTORS: The names and addresses of the Board of Directors of FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION, INC. are the following persons or such other persons who shall be elected to serve in their stead:

Eben J. Smith
27101 Forest Creek Dr. S.E. #108
Bonita Springs, FL 33923

Evelyn R. Toliver
10953 Leitner Creek Dr., SE #120
Bonita Springs, FL 33923

John Schultz
27110 Matheson S.E. Avenue #110
Bonita Springs, FL 33923

Bertram G. Himes
10981 Leitner Creek Dr. SE #117
Bonita Springs, FL 33923

The undersigned, being the duly elected and acting President and Secretary of FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION, INC., hereby certify that the foregoing were duly proposed by a majority vote at a special meeting of the Board of Directors called for the purpose and held on the 9th day of January, 1989. The undersigned further certify that the foregoing were approved by the affirmative vote of not less than a majority of the total membership of the corporation at the annual meeting of the members held on the 9th day of January, 1989, after due notice, in accordance with the requirements of the Articles of Incorporation for their amendment. The foregoing both amend and restate the Articles of Incorporation in their entirety.

Dated this 4th day of APRIL, 1990

ATTEST:

Evelyn R. Toliver, Secretary

FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION, INC.

BY: Raymond C. Cali, President

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Secretary

President
(CORPORATE SEAL)

STATE OF FLORIDA
COUNTY OF Collier

I HEREBY CERTIFY that on this day before me, an officer duly authorized to take acknowledgments, personally appeared Evelyn R. Toliver and Raymond C. Cole, well known to me to be the President and Secretary, respectively, of the aforementioned corporation and they acknowledged execution of the foregoing instrument freely and voluntarily under the authority duly vested in them by said corporation.

WITNESS my hand and official seal this 4 day of April, 1990.



Diana L. McQuinn
NOTARY PUBLIC
My Commission Expires:

Notary Public
State of Florida at Large
My Commission Expires June 28, 1992

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of Forest Creek Villas Condominium Association, Inc.
A Not-For-Profit Florida Corporation*

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EXHIBIT E
AMENDED AND RESTATED BY-LAWS OF
FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION INC
A NOT-FOR-PROFIT FLORIDA CORPORATION

SUBSTANTIAL REWORDING OF BYLAWS. SEE PRIOR BYLAWS AND AMENDMENTS FOR PREVIOUS TEXT.

1. GENERAL

1.1 These are the Amended and Restated By-Laws of FOREST CREEK VILLAS CONDOMINIUM ASSOCIATION, INC., hereinafter the "Association", a corporation not-for-profit, organized under the laws of Florida for the purpose of administering a condominium pursuant to the Florida Condominium Act, Section 718; Florida Statutes, and in compliance with the Federal Fair Housing Act of 1988.

1.2 The principal office of the Association shall be at 10968 Leitner Creek Drive, Box 148, Bonita Springs, Florida 34135.

1.3 The seal of the Association shall be inscribed with the names of the Association; the year of its organization, and the words "Florida" and "not-for-profit". The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

2. MEMBERS.

2.1 Qualification. The membership of the Association shall include all persons who are owners of a fee simple interest in any unit. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation or ownership by an entity. If the owner of a condominium parcel is not a natural person, the subject entity shall designate the natural persons who shall be entitled to occupy the condominium parcel, and such Natural persons shall be that unit's only member of the Association. Membership shall become effective upon the owner's recording a deed evidencing his ownership in the Public Records of Lee County, Florida, after having been approved as provided in the Declaration of Condominium, and upon providing a copy of the recorded deed to the Secretary of the Association.

2.2 Voting Rights. The members of the Association shall be entitled to one (1) vote for each unit owned by them. The total votes shall not exceed the total number of units. The vote of a unit shall not be divisible. The right to vote may not be denied because of delinquent assessments. If a condominium unit is owned by one person, his right to vote shall be established by the record title to the unit. When more than one person holds an ownership interest in any unit, the vote for such unit shall be exercised by one person who must be designated in writing to the Association. Such a designation is not required by a husband and wife unless legally separated.

2.3 Change of Membership. Following express written approval of the Association, a change of membership in the Association shall be established by recording in the public records of Lee

County, Florida, a deed or other instrument establishing a record title to a unit and the entering of the owner's name and address on the roster of the condominium. Thereupon, the grantee in such instrument will become a member of the Association and the membership of the prior owner shall thereby be automatically terminated.

2.4 Termination of Membership. The termination of membership in the Association does not relieve or release any former member from liability or obligation incurred under or in any way connected with the condominium during the period of his membership, nor does it impair any rights or remedies which the Association may have against a former owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

3. MEMBERS' MEETINGS.

3.1 Annual Meeting. The members shall meet at least once in each calendar year and such meeting shall be the annual meeting. The annual meeting shall be held in Lee County, Florida, in any month, at a date, place and time designated by the Board of Directors, for the purpose of electing Directors and transacting any other business duly authorized to be transacted by the members provided that said meeting is held not later than thirteen (13) months after the last annual meeting. Said annual meeting shall be held in the winter months when largest number of owners are present.

3.2 Special Members' Meetings. Special members' meetings shall be held whenever called by the President or by a majority of the Board of Directors, and must be promptly called by the Secretary upon receipt of a written petition from members entitled to cast ten percent (10%) of the votes of the entire membership. Such petition shall state the purpose or purpose of the meeting, and shall be signed by all the members making the request. Business at any special meeting shall be limited to the items specified in the request and contained in the notice of the meeting.

3.3 Notice of Annual and Special Meetings. Notice of all such meetings shall state the time, date and place of the meeting and shall include an agenda for the meeting. The notice must be mailed to each member at his address as it appears on the books of the Association, or may be furnished by personal delivery. The member bears the responsibility for notifying the Association of change of address. Notice of all meetings shall be posted on the bulletin board adjacent to the dumpster and on the bulletin board in the pool area.

Since the regular election of Board members must be held at the annual meeting, the first notice of the date of the annual meeting is required to be mailed or hand delivered not less than 60 days before the date of the meeting. Such mailing shall contain the name and correct mailing address of the Association. The second notice of the annual meeting and the notice for all special members meetings must be delivered and posted at least fourteen (14) days prior to the date of the meeting. Notice of any annual or special meetings shall be sent by regular United States mail or hand delivered to each owner. The foregoing requirements are not be construed, however to prevent unit owners from waiving notice of meetings or from acting by written agreement without meetings, as provided in the condominium documents or under the laws of the State of Florida.

3.4 Notice of Budget Meeting. The Board of Directors shall mail or hand deliver a notice of the budget meeting and a copy of the proposed annual budget to the unit owners not less than thirty (30) days before the date of the budget meeting and post notice not less than fourteen (14) days before the meeting at which the Board will consider the budget.

3.5 Notice of Meeting to Consider Excessive Budget. If a budget adopted by the Board of Directors requires assessment against the unit owners for any calendar year exceeding 115% of assessment for the preceding year, the Board, on written application of ten percent (10%) of the unit owners to the Board, shall call a special meeting of the unit owners within thirty (30) days, on not less than ten (10) days written notice to each unit owner. The amount of the proposed budget shall be determined by owner vote, in person or by proxy.

3.6 Notice of Meeting to consider recall of Board Members. A special meeting of the unit owners to recall a member or members of the Board of Directors may be called by ten percent (10%) of the unit owners giving notice of the meeting as required for a meeting of unit owners, stating the purpose of the meeting.

3.7 Quorum. Unless otherwise specified herein, a quorum at members' meetings shall be attained by the presence, either in person or by proxy, of a majority of the members who are eligible to vote.

3.8 Proxies. Votes at members' meetings may be cast in person or by proxy, except for elections, as specified in Paragraph 4.4.9(e). A proxy may be given by any person entitled to vote, but shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting. No proxy shall be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. A proxy must be in writing; dated and signed by the person authorized to cast the vote for the unit; specify the date, time and place of the meeting for which it is given and be filed with the Secretary before or at the appointed time of the meeting, or before the time, if any, at which the meeting is adjourned. No proxy shall be valid if it names more than one person as the holder of the proxy. The holder shall have the right, only if the proxy so provides, to substitute another person to hold the proxy.

3.9 Adjournments. Any meeting, regardless of whether a quorum has been attained, may be adjourned by majority vote of those present to meet at a later time. If a proxy has been given for a regular or special meeting, to be convened at a given date and time, and that meeting is adjourned to convene at another or later date (no more than ninety (90) days after date of the adjourned meeting), the proxy so given shall continue in effect unless revoked, and be valid for quorum count, and voting purposes, and as to all businesses transacted at such adjourned meeting.

3.10 Order of Business. The order of business at members' meetings shall be substantially as follows:

- A. Call of the roll and certification of quorum and proxies and election of Chairman.
- B. Proof of notice, or waiver of notice, of meeting.
- C. Reading and disposal of any unapproved minutes.
- D. Reports of Officers.
- E. Reports of Committees.
- F. Appointment of inspectors of election.
- G. Determination of number of directors, if necessary.
- H. Election of Directors.
- I. Unfinished Business.

- J. Old Business.
- K. New Business.
- L. Adjournment.

3.11 Minutes. Minutes of all meetings of members and of the Board of Directors shall be kept in a businesslike manner and available for inspection by members of their authorized representatives at all reasonable times and for a period of at least seven (7) years after the meeting. Unit owners and their authorized representatives shall have the right to make handwritten notations from the minutes or receive a copy at owner's expense.

3.12 Parliamentary Rules. Roberts' Rules of Order (Latest Edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration of Condominium or these By-Laws. The Board of Directors may appoint a Parliamentarian, whose decision on Parliamentary questions shall be final unless appealed by a majority of members voting.

3.13 Action by Members Without Meeting. Any action required or permitted to be taken at a meeting of the members may be taken without a meeting if written consents, setting forth the action to be taken, are signed by the members having not less than the minimum number of votes that would be necessary to take such action at a meeting, or a majority of the total votes of the entire membership, whichever is greater provided that all members have been given opportunity to vote thereon. If the requisite number of written consents are received by the Secretary within thirty (30) days of the date when notices of the proposed action were sent to the members, the Board of Directors may take the authorized action by adopting a resolution to that effect. Within ten (10) days after adopting the resolution, the Board shall send written notice of the action taken to all members who have not consented in writing. Nothing in this paragraph shall be construed in derogation of members' rights to call a special meeting of the membership, as elsewhere provided in these By-Laws.

3.14 Waiver of Notice. Unit owners may waive their right to receive notice of any meeting, whether annual or special, by a writing signed by them to that effect. The waiver shall be filed with the Secretary of the Association either before, at or after the meeting for which the waiver is given.

3.15 Actions Specifically Requiring Unit Owner Votes. The following actions require approval of the unit owners and may not be taken by the Board of Directors acting alone:

- A. Amendments to the Declaration or By-Laws.
- B. Merger of two or more independent condominiums of a single complex to form a single condominium.
- C. Purchase or sale of land, recreation lease or unit.
- D. Cancellation or change of certain grants or reservations made by the Declaration, & lease or other document and any contract made by the Association including ingress or egress easements or other property rights.
- E. Exercise of Option to purchase recreational or other facilities for common use.
- F. Providing No Reserves, or less than adequate reserves.
- G. Recall of members of Board of Directors.
- H. Whether a paid condominium manager shall be employed by the Association.

- I. Special assessments above \$4,600.00 or \$100.00 per unit per annum.
- J. Other matters contained in the Declaration, the Articles or these By-Laws that specifically require a vote of the Members.

4. BOARD OF DIRECTORS. The administration of the affairs of the association shall be by a Board of Directors.

4.1 Number of Terms of Service. The number of Directors which shall constitute the whole Board of Directors shall be five (5). The Directors shall be elected for a term of one year. But, in order to provide for a continuity of experience by establishing a system of staggered terms, beginning at any annual meeting, unit owners, by majority vote, may install a method of voting whereby two Directors shall be elected for a term of two (2) years and three (3) Directors shall be elected for a term of one (1) year. In case of a vacancy the Board may select a Director to serve the unexpired term.

4.2 Qualifications. Each Director must be a member of the association or a spouse of a member. Specifically, no lessee may be a Director. No person convicted of a felony and who has not had his or her right to vote restored is eligible for Board membership. No member who is delinquent in his assessments is eligible for Board membership.

4.3 Search Committee. In accordance with Florida Administrative Code Rule 61B-23.0021(2) for Chapter 718 of the Florida Statutes (Condominium Act) the Board may create or appoint a search committee which shall not have the authority to nominate any candidate, but may encourage qualified candidates for the Board. This same committee shall have at least three (3) members, one of whom shall be a member of the Board of Directors.

4.4 Elections. At each Annual Meeting, the members shall elect as many directors as there are regular terms of Directors expiring. The election process shall be as follows:

4.4.1 First Notice. The first notice of the annual meeting and election shall be provided by the Board to the members of the Association at least 60 days prior to the meeting as specified in Para B 3.3.

4.4.2 Candidates. 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 a scheduled election. A candidate may submit an information sheet which may describe the candidate's background, education, and qualifications as well as other factors deemed relevant by the candidate. The information contained therein shall not exceed one side of a sheet which shall be no longer than 8 ½ by 11 inches. Any candidate desiring this information to be distributed to the members must furnish the information sheet to the Association not less than 35 days before the election. No Association shall edit, alter or otherwise modify the contents of the information sheet.

4.4.3 Second Notice. In accordance with the requirements of Section 718.112(2)(d) of the Florida Statutes and of Paragraph B 3.3 of this document, the Association shall mail or deliver to the eligible voters at least fourteen (14) days prior to the election, at the addresses listed in the official records, a second notice of the election together with a ballot and any information sheets submitted by the candidates along with an agenda for the meeting. The written ballot shall indicate in alphabetical order by surname each candidate for the Board who had met the requirements of giving notice of their desire. No ballot shall provide a space for the signature of and any other means of identifying a voter. All

ballots utilized by a condominium association, whether those received by mail or those cast at an election meeting shall be uniform in color and appearance.

4.4.4 Absentee Ballots. For those unit owners not in residence at the time of mailing the second notice and for those unit owners requesting one, an absentee ballot shall be provided as follows:

The ballot shall be placed in an outer envelope addressed to the person or entity authorized to receive the ballot, and a smaller inner envelope in which the ballot shall be enclosed. The exterior of the outer envelope shall indicate the name of the voter and the unit or unit numbers being voted. It shall contain a signature space for the voter. Once the ballot is filled out, the voter shall place the completed ballot in the inner smaller envelope and seal the envelope. The inner envelope shall be placed within the outer larger envelope and the outer envelope shall then be sealed. Each inner envelope shall contain only one ballot. Additional ballots, if any, shall be placed in separate inner envelopes. Any separate inner envelopes required may be placed within a single outer envelope. The voter shall sign the exterior of the outer envelope in the space provided for such signatures. This is needed to identify the voter. If not provided, the ballot will be "disregarded". The ballot shall either be mailed or hand delivered to the Secretary of the Board. After receipt by the Secretary, no ballots may be rescinded or changed. The Secretary shall store the absentee ballots in a secure place.

4.4.5 No Election Required. In accordance with Section 718.112(2)(d)1 of the Florida Statutes, if the number of vacancies for the Board equals or exceeds the number of candidates, no election is required, and the candidates shall be installed on the Board at the annual meeting. However, the first notice of the election shall be provided as specified in Para. B 4.4.1 of this document, since at that time (60 days before the election) it is not known whether the number of candidates will be equal to or less than the number of vacancies. Also, the second notice shall be provided as specified in Para. B 4.4.3 except there shall be no ballot. Instead, a list by alphabetical surname of the candidates to be installed at the annual meeting shall be enclosed.

4.4.6 Election Requirements and Procedures. In accordance with Section 718.112(d)(2) of the Florida Statutes, the following are requirements places on the election of members to the Board, if an election is required:

- (a). The members of the Board shall be elected by ballot.
- (b). The Association shall provide for means of casting the ballots in secrecy.
- (c). Proxies shall not be used in electing the Board, either in general elections or elections to fill vacancies caused by recall, resignation or otherwise.
- (d). There shall be no quorum requirement; however, at least 20% of the eligible voters must cast a ballot in order to have a valid election of members of the Board.
- (e). Any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write, may request the assistance of a member of the Board, or other unit owner to assist in casting their vote. When casting the vote, the two shall retire to a location where the secrecy of the vote shall not be compromised.
- (f). The Association shall have available at the election meeting additional blank ballots for distribution to eligible voters who have not cast their ballots. Each

ballot distributed at the meeting shall be placed in an inner and other ballot in the same manner as was done with the absentee ballots.

- (g). As the first order of business, ballots not yet cast shall be collected and placed with the previously collected ballots. The Secretary shall check the name on the outer envelope of each ballot against a list of qualified voters and shall count the number of eligible voters who have voted. Ballots without a signature on the outer envelope shall be “disregarded” and therefore not count. If the number of valid ballots is equal to or greater than 20% of the eligible voters, the election shall be declared valid.
- (h). The Secretary shall then place all ballots into the hands of an “impartial” election committee designated by the Board. For the purpose of this rule, “impartial” shall mean a committee whose members or their spouses are not current Board members; officers of the Association or candidates for the Board.
- (i). The business of the meeting may proceed while the election committee proceeds with the vote counting.
- (j). The election committee shall remove and discard the outer envelopes and place the inner envelopes randomly in a suitable receptacle. Having completed this the election committee shall remove the ballots from the inner envelopes and count the vote.
- (k). Any candidate receiving a plurality of the vote shall be duly elected. The election committee shall provide a list of the duly elected candidates to the Board for recording and announcement.
- (l). If two or more candidates receive the same number of votes, the Association shall conduct a runoff election in accordance with the following:
 - (1). Within seven (7) days of the date of the election at which the tie vote occurred, the Board shall mail or personally deliver to the voters, a notice of a runoff election. The only candidates who are eligible for the runoff elections are the candidates who received the tie vote at the previous election.
 - (2). The notice shall inform the voters of the date and location of the scheduled runoff election; shall include a ballot with an alphabetical listing of the candidates for the runoff and shall include any information sheets submitted previously by the candidates.
 - (3). The runoff election must be held not less than twenty-one (21) days, nor more than thirty (30) days after the date of the election at which the tie occurred.

4.5 Vacancies on the Board. If the office of any Director or Directors becomes vacant for any reason, a majority of the remaining Directors, though less than a quorum, shall promptly choose a successor or successors, who shall hold office for the unexpired term.

4.6 Removal of Directors. Any or all Directors may be removed with or without cause by a majority vote of the entire membership, either by a signed writing or at any meeting called for that

purpose. If a petition is filed for the recall or removal of more than one Director, the question shall be voted separately as to each Director sought to be recalled or removed. If a special meeting is called by ten percent (10%) of the voting interests for the purpose of recall, the notice of the meeting must be accompanied by a dated copy of the signature list, stating the purpose of the signatures. The meeting must be held not more than sixty (60) days from the date of the notice. Any vacancy on the Board of Directors thus created shall be filled by the members of the Association at the same meeting. If more than one Director is subject to recall, there shall be a separate vote on the question to remove each Director.

4.7 Disqualification and Resignation. Any Director may resign at any time by sending a personally delivered written notice of resignation to the Association, addressed to the Secretary. The resignation shall take effect on receipt by the Secretary, unless it states differently. Any Board member elected by the unit owners who is absent from more than three (3) consecutive Board meetings, unless excused by resolution of the Board, shall be deemed to have resigned from the Board of Directors automatically. Any Board member more than thirty (30) days delinquent in the payment of an assessment shall be deemed to have resigned from the Board, effective when the resignation is accepted by the Board of Directors.

4.8 Organizational Meeting. The organizational meeting of each newly-elected Board of Directors shall be held within ten (10) days after the election at such place and time as may be fixed by the Directors at the annual meeting at which they were elected.

4.9 Regular Meetings. Regular meetings of the Board may be held at such time and place in Bonita Springs, Florida, 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 or telegram, at least forty-eight (48) hours prior to the day named for such meeting.

4.10 Special Meetings. Special meetings of the Board may be called by the President, or must be called by the Secretary at the written request of one-third of the Directors. Not less than forty-eight (48) hours notice of a special meeting shall be given to each Director, personally or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting.

4.11 Notice to Owners. Meetings of the Board of Directors shall be open to members, and notices of all meetings, including the agenda shall be posted on the bulletin boards adjacent to the dumpster and in the pool area at least forty-eight (48) hours in advance of each Board meeting, except in an emergency. 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 to attend such meetings includes the right to speak at such meetings with reference to any or all of the items on the agenda. The Association may adopt reasonable written rules governing the frequency, duration and manner of unit owner's statements. But once the period for unit owner's statements is completed and the Board's business meeting has started, there shall be no further comments from members at the meeting and no distractions shall be permitted during the course of the meeting.

4.12 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. If all Directors are present at a meeting, no notice shall be required and any business may be transacted at such meetings.

4.13 Quorum of Directors. A quorum shall consist of a majority of all Directors. Members of the Board of Directors may participate in any meeting of the Board, or meeting of an executive or other

committee, by means of a conference telephone or similar communicative equipment. Participation by such means shall be deemed equivalent to presence in person at a meeting providing he later signs minutes.

4.14 Vote Required. The acts approved by a majority of those Directors present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Condominium Documents or by applicable statutes. Directors may not vote by proxy at Board meetings.

4.15 Presumption of Assent. A Director who is present at a meeting of the Board shall be deemed to have voted in favor of any action taken, unless he voted against such action or abstained from voting with respect thereto because of an asserted conflict of interest.

4.16 Adjourned Meetings. If at any meeting of the Board of Directors there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present.

4.17 Presiding Officer. The President of the Association, or in his absence, the Vice-President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by majority vote of those present. The presiding officer shall finally decide all questions of parliamentary procedure at meetings of the Board.

4.18 Powers and Duties of Board of Directors. All powers and duties granted to the Association by Florida Law, as modified and explained in the Declaration of Condominium, Articles of Incorporation, and these By-Laws, shall be exercised by the Board of Directors, subject to approval or consent of the unit owners only when such is specifically required.

- A. Maintenance, Management and Operation of the Condominium.
- B. Contract, Sue or be Sued. The Association may institute, maintain, settle or appeal actions or hearings in its name on behalf of all unit owners concerning matters of common interest, including, but not limited to, the common elements and commonly-used facilities.
- C. Right of Access to Units. The Association has the irrevocable right of access to each unit during reasonable hours as necessary for the maintenance, repair or replacement of any common elements of, for making emergencies, repairs necessary to prevent damage to the common elements or to another unit or units.
- D. Make and Collect Assessments.
- E. Lease, Maintain, Repair and Replace the Common Elements.
- F. Lien and Foreclosure for Unpaid Assessments. The Association has a lien on each condominium parcel for any unpaid assessments with interest and for reasonable attorney's fees incurred in the collection of the assessment or enforcement of the lien. It also has the power to purchase the condominium parcel at the foreclosure sale and to hold, lease, mortgage, or convey it.
- G. Purchase Unit. In addition to its right to purchase units at a lien foreclosure sale, the Association generally has the power to purchase units in the condominium and to acquire, hold, lease, mortgage and convey them, with the approval of majority of unit owners.
- H. Modify Easements. The Association, without the joinder of any unit owners, may modify or move any easement for ingress and egress of our utilities purposes if the easement constitutes part of or crosses the condominium property.

I. Purchase Land or Recreation Lease. Any land or recreation lease may be purchased by the Association on the approval of two thirds of the unit owners of the Association.

J. Acquire Use Interest in Recreational Facilities. The Association may enter into agreements, acquire leaseholds, memberships and other possessory or use interests in lands or facilities, such as country clubs, golf courses, marinas and other recreational facilities, whether contiguous to the condominium property or not if: (a) they are intended to provide enjoyment, recreation or other use or benefit to the unit owners and (b) if they exist or are created at the time the declaration was recorded, they are fully stated and described in the declaration.

K. Authorize Certain Amendments. If it appears that through a drafter's error in the declaration that the common elements, common expenses or common surplus has been stated or distributed improperly, an amendment to the declaration correcting that error may be approved by the Board of Directors or a majority of the unit owners. No unit owners except those directly affected must join in the execution of the amendment.

L. Adopt Rules and Regulations. The Association may adopt reasonable rules and regulations for the use of the common elements, common areas and recreational facilities serving the condominium.

M. Maintain Accounting Records.

N. Obtain Insurance. The Association shall use its best efforts to obtain and maintain adequate insurance to protect the Association and the common elements.

O. Furnish Annual Financial Reports to Members including, but not limited to, a balance sheet providing the Condominium's assets, liabilities and balances in banks or other institutions.

P. Give Notice of Liability Exposure. If the Association may be exposed to liability in excess of insurance coverage in any legal action, it shall give notice of the exposure to all unit owners, who shall have the right to intervene and defend.

Q. Provide Certificate of Unpaid Assessment. Any unit owner, mortgagee or other record lienholder has the right to require from the Association a certificate showing the amount of assessments respecting the unit owner's condominium parcel.

R. Pay the Annual Fee to the Division of Florida and Condominiums for each Residential Unit Operated by the Association.

S. Approve or Disapprove Unit Transfers and Impose Fees.

The Association may charge a preset fee up to the maximum amount allowed by law in connection with the approval or disapproval or any proposed transfer, lease, sale or other disposition of a Unit in the condominium.

T. Contract for Maintenance and Management of the Condominium.

U. Pay Taxes or Assessments Against the Common Elements or Association Property.

V. Pay Costs of Utilities Services Rendered to the Condominium and Association Property and Not Billed Directly to Individual Unit Owners.

W. Employ Personnel. The Association may employ and dismiss personnel as necessary for the maintenance and operation of the condominium property and may retain those professional services that are required for those purposes.

X. Impose Fines. The Board may impose fines on unit owners as provided elsewhere in these documents.

Y. Authorize Private Use of the Common Elements. The Board of Directors may authorize unit owners or others to use portions of the common elements, such as social rooms and meeting rooms for private parties and gatherings, for which reasonable charges may be imposed.

Z. Repair or Reconstruct Improvements After Casualties.

AA. Lien for Labor and Materials Furnished to the Common Elements. Labor performed on or materials furnished to the common elements, if authorized by the Board of Directors, may be the basis for the filing of a lien against all condominium parcels in the proportions for which the owners are liable for common expenses.

4.19 Directors' Fees. No compensation or fees shall be paid to any Director for services as a Director.

4.20 Reimbursement of Expenses. Directors may be reimbursed for any reasonable expenses incurred for the benefit of the Association upon approval of the President, or in the case of expenditures by the President, upon approval of the Vice-President. The maximum reimbursable expenses in any one calendar year per director shall be One Hundred Dollars (\$100.00).

4.21 Committees. The Board of Directors may appoint from time to time such standing or temporary committees, including a search committee for Board candidates, as the Board may deem necessary and convenient for the efficient and effective operation of the condominium. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee.

4.22 Failure to Elect Director Quorum. If the Association or the Board of Directors fails to fill vacancies on the Board of Directors sufficient to constitute a quorum, any unit owner may apply to the circuit court within whose jurisdiction the condominium is situated for the appointment of a receiver to manage the affairs of the Association, in the manner prescribed by Florida Statute. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs, and attorney's fees. The receiver shall have all the powers and duties of a duly constituted Board of Directors and shall serve until the Association fills vacancies on the Board sufficient to constitute a quorum.

4.23 Minutes of Meetings. The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by unit owners or their authorized representative and Board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years. Unit owners and their authorized representatives shall have the right to make written notations from the minutes or copies at their own expense.

4.24 Order of Business.

The Order of business at meetings of Directors shall be:

- A. Calling of roll
- B. Proof of notice of meeting or waiver of notice
- C. Reading and disposal of any unapproved minutes

- D. Reports of officers and committees
- E. Election of officers
- F. Unfinished business
- G. New business
- H. Adjournment

4.25 Joinder in Meeting by Approval of Minutes. A Director may join in the action of a meeting by signing and concurring in the minutes of that meeting. The concurrence, however, shall not constitute the presence of that Director for the purpose of determining a quorum.

5. OFFICERS.

5.1 Officers and Elections. The executive officers of the Association shall be a President, and a Vice-President, who must be Directors, Treasurer and Secretary, all of whom shall be elected annually by the Board of Directors and shall be a member, or the spouse of a member, of the Association and who may be removed with or without cause by vote of a majority of all Directors at any meeting. Any person may hold two or more offices, except that the President shall not hold any other office. The Board of Directors shall, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one Vice-President.

5.2 President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the members and Directors, shall be ex-officio a member of all standing committees, shall have general and active management of the business of the Association, shall see that all orders and resolutions of the Board are carried into effect. He shall execute bonds, mortgages and other contracts requiring seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

5.3 Vice-Presidents. The Vice-Presidents in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties as the Board of Directors shall prescribe.

5.4 Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of the members and shall record all votes and the minutes of all proceedings in a book to be kept for the purpose, and shall perform like duties for standing committees when required. He shall give, or cause to be given, notice of all meetings of the members and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. He shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it and, when so affixed, it shall be attested by his signature or the signature of the Assistant Secretary. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the condominium documents. Any of the foregoing duties may be performed by an Assistant Secretary, if one has been designated.

5.5 Treasurer. The Treasurer shall have the custody of the Association funds and securities and shall keep full and accurate accounts of receipts and disbursements, and shall deposit all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. He shall disburse the funds of the Association, taking proper

vouchers for such disbursements, and shall render to the President and Directors, at meetings of the Board, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if one has been designated. All non-recurrent charges to the Association shall be approved by the Board of Directors unless previously approved by the Board or the Association membership.

5.6 Compensation of Officers. No compensation shall be paid to any member of the Board of Directors for their services as officers of the Association. This provision also precludes the Board of Directors from employing Board Members as employees of the Association.

6. FISCAL MATTERS. The provisions for fiscal management of the Association set forth in the Declaration of Condominium shall be supplemented by the following provisions:

6.1 Budget. A copy of the proposed budget and a notice stating the time and place of the annual budget shall be mailed to or served on the members not less than thirty (30) days prior to that meeting. The proposed budget shall be detailed and shall show the amounts budgeted by accounts and expense classifications. The dates for budget preparation and the annual budget meeting shall be set by the Board so as to provide an approved budget by the start of the fiscal year.

6.2 Budget Requirements. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, when applicable, but not limited to:

- A. Administration of the Association
- B. Management fees
- C. Maintenance
- D. Rent for recreational and other commonly used facilities
- E. Taxes on Association Property
- F. Taxes on leased areas
- G. Insurance
- H. Security provisions
- I. Fees for professional services
- J. Operating capital
- K. Fees payable to the Division of Florida Land Sales and Condominiums
- L. Other expenses

6.3 Reserves for Capital Expenditures and Maintenance. In addition to annual operating expenses, the proposed budget must include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but not be limited to, roof replacement, building painting, exterior building maintenance and pavement resurfacing. The amount to be reserved shall be computed by a formula based upon estimated life and replacement cost of each item. These reserves shall be funded unless the members subsequently determine by majority vote of those present in person or by proxy at a duly called meeting to fund no reserves or less than adequate reserves. Reserves for the above-stated purpose may not be spent for other purposes unless the expenditure is first approved by a majority of the owners present, in person, and by proxy at a duly called meeting.

6.4 General Maintenance Reserves. In addition to the statutory reserves provided in 6.3 above, or in place of them if the members so vote, the Board may establish one or more additional reserve accounts for general operating expenses, repairs, minor improvements or deferred maintenance. The purpose of the reserves is to provide financial stability and to avoid the need for special assessments on a frequent basis. The amounts proposed to be so reserved shall be shown in the proposed annual budget each year. These funds may be spent for any purpose.

6.5 Assessments. All regular annual assessments shall be paid in quarterly installments, in advance, on the first day of each quarter. If an annual budget has not been adopted at the same time a quarterly installment is due, it shall be presumed that the amount of such installment is the same as the preceding quarterly payment, and payments shall be continued at such rate until a budget is adopted and pro rata assessments are calculated, at which time any overage or shortage shall be added or subtracted from each unit's next due quarterly installment.

6.6 Assessments, Amended Budget. If the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board of Directors. Unpaid assessments for the remaining portion of the year for which an amended assessment is made shall be payable in as many equal installments as there are installment payment dates remaining in the budget year as of the date of the amended assessment. The budget shall not be amended for emergency or special nonrecurring expenses.

6.7 Special Assessments. Special assessments may be made when necessary to meet unusual, unexpected, emergency, or non-recurring expenses, or for such other purposes as are authorized by the Declaration of Condominium and these By-Laws. Special assessments are due on the day specified in the resolution of the Board approving such assessment. The sum total of all special assessments in any one fiscal year shall not exceed \$150.00 per unit except by vote of a majority of the unit owners.

6.8 Fidelity Bonds. The Treasurer and all other officers who are authorized to sign checks, and all Directors and employees of the Association handling or responsible for Association funds, shall be bonded in such amounts as may be required by law. The premiums on such bonds shall be paid by the Association.

6.9 Financial Information. Not later than sixty (60) days after the close of each fiscal year, the Board shall prepare a financial statement showing in reasonable detail the financial condition of the Association as of the close of its fiscal year and an income and expense statement for the year, detailed

by accounts. Copies of these statements shall be made available to each member. If called for by a majority of the voting interests present at any meeting, the Board shall present a full and clear statement of the business and condition of the Association.

6.10 Audits. A formal, certified audit of the accounts of the Association, if required by law or by vote of a majority of the voting interests, shall be made by a certified public accountant, and a copy of the audit report shall be available to all members.

6.11 Co-Mingling of Funds. All sums collected by the Association from assessments may be co-mingled in a single fund or divided into two or more funds, as determined by the Board of Directors.

6.12 Fiscal Year. The fiscal year for the Association shall be a calendar year. The Board of Directors may change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed in the Internal Revenue Code of the United States of America.

7. RULES AND REGULATIONS. The Board of Directors may, from time to time, adopt and amend administrative rules and regulations governing the maintenance, management and control of the common elements. Copies of such rules and regulations shall be furnished to each unit owner.

8. FINES AND ARBITRATION.

8.1 Fines. The Board of Directors may, pursuant to Florida Statute, assess fines against unit owners who commit violations of the condominium documents or Association rules and regulations, or who condone such violations by their family members, guests or lessees. The fines shall be in an amount deemed necessary by the Board to deter future violations and shall be in proportion to the seriousness of the offense, but in no event shall exceed the maximum permissible by law. No fine shall be imposed until the unit owner has been given notice and an opportunity to be heard before the Board. The Association shall be empowered to collect fines assessed hereunder in the same manner as any assessment for common expenses but shall not have the right to impose a lien on the unit for the enforcement of payment.

8.2 Correction of Health and Safety Hazards. Any violations which are deemed by the Board of Directors to be a hazard to the public health or safety may be corrected immediately as an emergency matter by the Association and the cost thereof shall be charged to the unit owner as a specific item, which charge may be enforced by a lien against said unit with the same force and effect as if the charge were a part of the common expense.

8.3 Voluntary Binding Arbitration and Litigation. In the event of a dispute between one or more unit owners and/or the Association arising from the operation of the condominium, the parties may submit the dispute to voluntary binding arbitration under the rules of the Division of Florida Land Sales and Condominiums. Alternatively, the parties may seek redress of their grievances in a court of Law. The prevailing party in any voluntary arbitration or court litigation shall be entitled to all attorney's fees and costs.

8.4 Availability of Remedies. Each member, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of violations regardless of the

harshness of the remedy utilized by the Association and regardless of the availability of other legal remedies. It is the intent of all members to give the Association methods and procedures which will enable it to operate on a businesslike basis, to collect those monies due it and to preserve the majority's right to enjoy the condominium property free from unreasonable restraint and annoyance.

9. AMENDMENT OF BY-LAWS. Amendments to these By-Laws shall be proposed and adopted in the following manner:

9.1 Amendments to these By-Laws shall be proposed by a majority of the entire Board or upon petition of not less than one-third (1/3) of the unit owners by instrument, in writing, signed by them.

9.2 Upon any amendment or amendments to these By-Laws being proposed by said Board or unit owners, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall, thereupon determine which of the methods shown in 9.3 below shall be used for voting. The appropriate notices and copies of the proposed amendments shall be mailed to the members not less than thirty (30) days after transmittal to the President.

9.3 Except as otherwise provided by law, or by specific provision of the Condominium documents, these By-Laws may be amended by concurrence of two-thirds (2/3) of the unit owners present and voting in person or by proxy at any annual or special meeting provided that notice of any proposed amendment has been given to all the members in accordance with law. Amendments may be adopted without a meeting by following the procedures set forth in Section 3.13 of these By-Laws.

9.4 A copy of each amendment shall be attached to a certificate stating that the amendment was duly adopted, which certificate shall be executed by officers 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 Lee County, Florida.

9.5 Defective Condominium Documents, Curative Provisions. The Association or a unit owner may petition the circuit court having jurisdiction in the county in which the condominium property is situated to correct an error or omission in the Declaration or any other documents required to establish the condominium, affecting its valid existence, and which errors or omissions are not correctable by the amendment procedures in the Declaration or the Act.

10. COMPLIANCES AND DEFAULT

10.1 Violations, Notice, Actions. In the case of a violation (other than the nonpayment of an assessment) by a unit owner of any of the provisions of the Act, the Declaration, the Articles, these By-Laws or any lawfully adopted rules and regulations, the Association by direction of its Board of Directors shall transmit to the unit owner by certified mail, return receipt requested, a notice of the violation and notice of any applicable fines and other action provided for such violation. If the violation shall continue for a period of thirty (30) days from the date of the notice, the Association shall have the right to treat the violation as an intentional and material breach of the provision cited in the notice. It then, at its option, may take the following actions:

- A. Unit owner shall be given opportunity to appear before board as specified under provisions of Section 8.1 herein.
- B. Impose Fine.
- C. File an action to recover for its damages on behalf of the Association or on behalf of other unit owners.
- D. File an action for injunctive relief requiring the offending unit owner to take or desist from taking certain actions.
- E. File an action for both damages and injunctive relief.

A unit owner may bring an action against the Association for damages, injunctive relief, or both, if the Association fails to comply with the provisions of the Act, the Declaration, the articles, these By-Laws or the Rules and Regulations.

10.2 Attorney's fees. In any action brought pursuant to the provisions of 10.1, the prevailing party is entitled to recover reasonable attorney's fees.

10.3 No Waiver of Rights. Neither a unit owner nor the Association may waive a provision of the Act if that waiver would adversely affect the rights of a unit owner or the purposes of the provision, except that unit owners or Board members may waive notice of specific meeting in writing.

10.4 Liability Survives Membership Termination. Termination of membership in the Association shall not relieve or release a former member from any liability or obligation incurred with respect to the condominium during the period of membership, nor impair any rights or remedies that the Association may have against the former member arising out of his membership and his covenants and obligations incident to that membership.

11. MISCELLANEOUS

11.1 Gender. Whenever the masculine or singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires. Furthermore, whenever the context permits or requires, the singular shall include the plural and the plural shall include the singular.

11.2 Severability. Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

11.3 Priorities in Case of Conflict. In the event of conflict between or among the provisions of any of the following, the order of priorities shall be, from highest priority to lowest:

- A. Federal Fair Housing Act of 1988
- B. Florida Statute 718.

- C. The Declaration.
- D. The Articles.
- E. These By-Laws.
- F. The Rules and Regulations.

11.4 Roster of Unit Owners and Occupant. Each unit owner shall file with the Association a copy of the Deed, Tax Bill or other instrument showing the owner (or owners) of record which will be used to compile the required roster of owners. A second listing, required by the Fair Housing Act, is a listing of occupants age fifty-five (55) or greater. For this purpose, one fifty-five (55) or greater age occupant shall supply the Association with a copy of any document that disclosed age, birth certificates, drivers licenses, Social Security card or any other document showing date of birth may be used. Both rosters shall be kept on file and up to date by the Association.

12. INDEMNIFICATION.

12.1 Indemnity. The Association shall indemnify any Officer, Director, or Committee Member 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, by reason of the fact that he is or was a Director, Officer, or Committee Member of 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, unless (i) a court of competent jurisdiction finally determines, after all appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or 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, that he had reasonable cause to believe his conduct was unlawful, and (ii) such court also determines specifically that indemnification should be denied. 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 failed to 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, had reasonable cause to believe that his conduct was unlawful. It is the intent of the membership of the Association, by the adoption of this provision, to provide the most comprehensive indemnification possible to their Officers, Directors, and Committee Members as permitted by Florida law.

12.2 Defense. To the extent that a Director, Officer, or Committee Member of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 6.1 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.

12.3 Advances. Reasonable expenses incurred in defending a civil or criminal action, suit, or proceeding shall be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of the affected Director, Officer, or

Committee Member to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Association as authorized by this Article 12.

12.4 Miscellaneous. The indemnification provided by this Article 12 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any Bylaw, agreement, vote of Members, or otherwise, and shall continue as to a person who has ceased to be a Director, Officer, or Committee Member and shall inure to the benefit of the heirs and personal representatives of such person.

12.5 Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, Officer, Committee Member, employee, or agent of the Association, or 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 duty to indemnify him against such liability under the provisions of this Article.

13. DISPUTE RESOLUTION.

13.1 Mandatory Arbitration. If unresolved, disputes between the Board and Members as defined in Section 718.1255(1), Florida Statutes, as amended from time to time, must be arbitrated in mandatory non-binding arbitration proceedings as provided in the Condominium Act prior to commencing litigation, so long as the Condominium Act requires such arbitration.

13.2 Member Inquiries. When a Member files a written inquiry by certified mail with the Board, the Board shall respond in writing to the Member within 30 days of receipt of said inquiry. The Board's response shall either give a substantive response to the inquirer, or notify the inquirer that legal advice has been requested, or notify the inquirer that advice has been requested from the Association's counsel or the Division. If the Board requests advice from the Division, the Board shall, within ten days of its receipt of the advice, provide in writing a substantive response to the inquirer. If a legal opinion is requested, the Board shall, within 60 days after the receipt of the inquiry, provide in writing a substantive response to the inquirer. The failure to provide a substantive response to the inquirer as provided herein precludes the Association from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the inquiry. Absent a different rule adopted by the Board of Directors, the Board shall only be obligated to respond to one inquiry per month pertinent to any particular Unit. In the event of a grievance of a Member against the Association, the Board of Directors, or a Member thereof, written notice in detail of the grievance shall be given the Directors prior to the institution of litigation, (including but not limited to arbitration) and they shall be allowed a period of 30 days in which to resolve the grievance.

13.3 Other Remedies. Nothing herein shall preclude the Association from pursuing any remedy for the violation of the Condominium Documents or disputes with a Member or other party as may be available to the Association under the laws of the State of Florida or the Condominium Documents.