

NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE DECLARATION.
FOR PRESENT TEXT SEE EXISTING DECLARATION

**SECOND AMENDED AND RESTATED DECLARATION OF CONDOMINIUM
OF
WING SOUTH, INC., A FLORIDA NOT-FOR-PROFIT CORPORATION
F/K/A WING SOUTH AIRPARK PRIVATE VILLAS, INC.,
A CONDOMINIUM**

Retn:
WING SOUTH INC
4130 SKYWAY DR
NAPLES FL 34112

4000385 OR: 4210 PG: 3504
RECORDED in the OFFICIAL RECORDS of COLLIER COUNTY, FL
04/10/2007 at 01:37PM DWIGHT E. BROCK, CLERK
REC FEE 528.50

On September 12,1972, the original Declaration of Condominium of Wing South Airpark Private Villas, Inc., a Condominium (hereinafter the "Condominium") was recorded in Official Record Book 476, at Page 304 et seq., as amended by instrument recorded at O.R. Book 593, Page 302, et seq.; O.R. Book 597, Page 1760, et seq.; O.R. Book 603, Page 237, et seq.; O.R. Book 603, Page 1146, et seq.; O.R. Book 609, Page 1011, et seq.; O.R. Book 612, Page 1985, et seq.; O.R. Book 637, Page 1244, et seq.; O.R. Book 776, Page 1770 et seq.; O.R. Book 907, Page 1863, et seq.; O.R. Book 937, Page 1041, et seq.; O.R. Book 1288, Page 2233, et seq.; the foregoing Declaration, as amended, shall be referred to herein as the Original Declaration and as previously amended and restated by instrument recorded at Official Record Book 2042 at Page 768 et seq. all of the Public Records of Collier County, Florida. That Declaration was previously amended and restated in its entirety by this Second Amended and restated Declaration of Covenant. The original name of Wing South Airpark Private Villas Inc. was changed to Wing South Inc. on July 19, 2001.

1. **SUBMISSION TO CONDOMINIUM OWNERSHIP:** This Second Amended and Restated Declaration of Condominium, this Declaration, is made by Wing South Inc., formerly known as Wing South Airpark Private Villas, Inc., a Florida corporation, not for profit, hereinafter the "Association." The land subject to this Declaration and the improvements located thereon have already been submitted to Condominium ownership and use pursuant to the Florida Condominium Act. No additional property is being submitted to Condominium ownership by this Declaration. 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 other interest in the Condominium property, or the Lease, occupancy, or use of any portion of a Unit or the Condominium property, constitutes an acceptance and ratification of all provisions of this Declaration as amended from time to time, and an agreement to be bound by its terms.

2. **NAME AND ADDRESS:** The name of this Condominium is Wing South, Inc., a condominium, f/k/a Wing South Airpark Private Villas, Inc., a Condominium, and its street address is 4130 Skyway Drive, Naples, Florida 34112.

3. **DESCRIPTION OF CONDOMINIUM PROPERTY:** The land submitted to the Condominium form of ownership by the Original Declaration (hereinafter the "Land") is legally described in the Original Declaration, and is attached hereto as Exhibit "A", for reference purposes.

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4. **DEFINITIONS:** The terms used in this Declaration and its exhibits shall have the meanings stated below and in Chapter 718, Florida Statutes, (The "Condominium Act"), 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 Units.

4.2 "**Association**" means Wing South, Inc., a Florida corporation, not for profit, the entity responsible for the operation of this Condominium.

4.3 "**Association Property**" means all property, real or personal, Owned or Leased by the Association for the use and benefit of the Unit Owners.

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

4.5 "**Common Expenses**" means the expenses of operation, maintenance, repair, replacement and insurance of the Common Elements and Association Property, the expenses of operating the Association and the Condominium, and including amounts budgeted for the purpose of funding reserve accounts.

4.6 "**Common Elements**" means all of the property submitted to Condominium ownership that is not within the Unit boundaries set forth in section 5 herein, and all other adjacent property owned by the Association. The Common Elements include without limitation the following:

(A) The land

(B) All portions of buildings and other improvements outside the Units, including landscaping improvements and facilities and all Limited Common Elements.

(C) Furniture, fixtures, equipment, supplies and all other property and improvements acquired by the Association.

4.7 "**Common Surplus**" means the amount of all receipts or revenues, including Assessments, rents, or profits, collected by the Association which exceeds Common Expenses.

4.8 "**Condominium Documents**" means and includes this Declaration and all recorded exhibits hereto, as amended from time to time, including without limitation the Second Amended and Restated Articles of Incorporation and the Second Amended and Restated By-laws.

4.9 "**Family**" or "**Single Family**" shall refer to any one of the following:

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- (A) One natural person.
- (B) Two or more natural persons who commonly reside together as a single housekeeping Unit, each of whom is related by blood, marriage or adoption to each of the others.
- (C) Two or more natural persons meeting the requirements of (B) above, except that there is among them one person who is not related to some or all of the others.

4.10 "**Guest**" means any person who is not the Unit Owner or a lessee or a member of the Owner's or lessee's family, who is physically present in, or occupies the Unit on a temporary basis at the invitation of the Owner or other legally permitted occupant, without the payment of consideration.

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

4.12 "**Lease**" means the grant by a Unit Owner of a temporary right of use of the Owner's Unit for valuable consideration.

4.13 "**Limited Common Elements**" means and includes those Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of other Units.

4.14 "**Lot**" is a term which may sometimes be used herein to describe a Unit together with the Limited Common Elements associated with said Unit.

4.15 "**Occupy**", when used in connection with a Unit, means the act of staying overnight in a Unit. "Occupant" is a person who occupies a Unit.

4.16 "**Primary Occupant**" means the natural person approved for occupancy of a Unit when title to a Unit is held in the name of more than two persons, or by a trustee or a corporation or other entity which is not a natural person.

4.17 "**Rules and Regulations**" means those rules and regulations promulgated by the Board of Directors, governing the use of the Units, Common Elements and the operation of the Association.

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4.18 **"Tenant"** means the lessee of a Unit.

4.19 **"Unit"** means that part of the Condominium property which is subject to exclusive ownership.

4.20 **"Unit Owner" or "Owner"** has the same meaning as the term "Unit Owner" as defined in the Condominium Act, except that for purposes of interpreting use and occupancy restrictions related to Units, in cases where a primary occupant has been designated for a Unit because of its ownership, the word "Owner" refers to the primary occupant and not the record Owner.

4.21 **"Voting Interest"** means and refers to the arrangement established in the Condominium documents by which the Owners of each Unit collectively are entitled to one vote in Association matters. There are fifty-nine (59) Units, so the total number of Voting Interests is fifty-nine (59) votes.

5. **DESCRIPTION OF IMPROVEMENTS; SURVEY AND PLANS:**

5.1 **Survey and Plot Plans.** Attached to the original Declaration of Condominium recorded at O.R. Book 476, Page 304 of the Public Records of Collier County, Florida as Exhibits "B" and "C", are a survey of the Land and plot 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. Those same exhibits are reattached hereto as exhibits for reference only. Together with this Declaration, the exhibit is in sufficient detail to identify each Unit, the Common Elements and Limited Common Elements, and their relative locations and dimensions. In addition, there is a paved runway; paved and unpaved taxiways; an aircraft parking ramp; a pilot's lounge; the "U"-shaped inner taxiway; and Skyway Drive which is primarily a taxiway for aircraft owned and/or operated by members of the Association or their guests, as well as an access road, all of which are for the common use of the members. Wing South is a fly-in community and members of the Association recognize that this type of community involves certain extraordinary activities related to aircraft operations including but not limited to the following: aircraft operation 24 hours a day/seven (7) days a week; fumes and odors related to fuel; paint and cleaning solutions; and noise propeller wash and vibrations related to aircraft operation and machine sounds related to aircraft maintenance.

5.2 **Unit Boundaries.** This is a land condominium. As such, each Unit shall have the boundaries as shown on Exhibits "B" and "C" of the Original Declaration copies of which are attached hereto for reference purposes as Exhibits B and C.

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In cases not specifically covered in this Section 5.2, or in any case of conflict or ambiguity, the graphic depictions of the Unit boundaries set forth in the Original Declaration shall control in determining the boundaries of a Unit.

6. CONDOMINIUM PARCELS - APPURTENANCES AND USE:

6.1 Shares of Ownership. The Condominium contains fifty-nine (59) Units. The Owner of each Unit shall also own a one fifty-ninth (1/59th) undivided share in the Common Elements and the Common Surplus.

6.2 Appurtenances to Each Unit. The Owner of each Unit shall have certain rights and own a certain interest in the Condominium Property, including without limitation the following:

- (A) An undivided (1/59th) ownership share in the Land and other Common Elements and the Common Surplus, as set forth in Section 6.1 (shares of ownership) above.
- (B) Membership and voting rights in the Association, which shall be acquired and exercised as provided in the Articles of Incorporation and Bylaws of the Association, current copies of which are attached hereto as Exhibits "D" and "E", respectively.
- (C) The exclusive right to use the Limited Common Elements reserved for the Unit and the right to use the Common Elements.
- (D) An exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time. An easement in airspace which is vacated shall be terminated automatically
- (E) Other appurtenances as may be provided in the Declaration and its exhibits.

6.3 Use and Possession.

A Unit Owner is entitled to exclusive use and possession of his/her Unit. A Unit Owner is entitled to use the Common Elements in accordance with the purposes for which they are intended, but no use of the Unit or of the Common Elements may unreasonably interfere with the rights of other Unit Owners or other persons having rights to use the Condominium Property. No unit may be subdivided and no fractional portion may be sold, leased or otherwise transferred. The use of the Units, Common Elements and Limited Common Elements shall be governed by the Condominium documents and by the Rules and Regulations adopted by the Board of Directors, as provided by the Bylaws of the Association.

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Notwithstanding the foregoing limitations, a Unit Owner may, at his discretion, permit another Unit Owner, primary occupant, lessee or airport licensee pursuant to the Settlement Agreement dated July 30, 1986 to store their aircraft in his/her hangar.

7. **EASEMENTS:**

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

(A) **Utility and other Easements.** The Association has the power, without the joinder of any Unit Owner, to grant, modify or move easements such as electric, gas, cable television, or other utility, drainage, service or access easements, or relocate any existing easements, in any portion of the Common Elements or Association property, and to grant easements or relocate any existing easements in any portion of the Common Elements or Association property, as the Association shall deem necessary or desirable for the proper operation and maintenance of the Condominium. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with the use of the Units. The Association may also transfer title to utility-related equipment or installations, and take any other action reasonably necessary to satisfy the requirements of any utility company or governmental agency to which any such utility-related equipment or installations are to be so transferred.

(B) **Encroachments.** If, for any reason other than the intentional act of the Unit Owner or the Association, any unit encroaches upon any of the Common Elements or upon any other Unit, or any Common Element encroaches upon any Unit, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.

(C) **Ingress and Egress.** A non-exclusive easement shall exist in favor of each Unit Owner and Occupant, their respective guests, tenants, licensees and invitees for aircraft and 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 aircraft, vehicular and pedestrian traffic over, through, and across such portions of the Common Elements as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways.

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7.2 Restraint Upon Separation and Partition. The undivided share of Ownership in the Common Elements and Common Surplus appurtenant to a Unit cannot be conveyed or encumbered separately from the Unit and shall pass with the title to the Unit, whether or not separately described. As long as the Condominium exists, the Common Elements cannot be partitioned. The shares in the funds and assets of the Association cannot be assigned, pledged or transferred except as an appurtenance to the Units.

8. LIMITED COMMON ELEMENTS:

8.1 Description of Limited Common Elements. Certain Common Elements have been reserved for the use of a particular Unit or Units, to the exclusion of the other Units. The Limited Common Elements and the Units to which their exclusive use is appurtenant, are as described in this Declaration and its recorded exhibits of the Original Declaration. The following Common Elements are hereby designated as Limited Common Elements, and shall be maintained, repaired and replaced by, and solely at the expense of, the Owner of the Unit:

Equipment, vegetation and improvements including, without limitation, the following:

1. Water sprinkler systems including well and pump.
2. Heating, ventilation and air conditioning equipment.
3. Trees and vegetation including root systems, and all landscaping elements.
4. Driveways, walkways and ramps.
5. Pool pumps, pool heaters and support equipment.

8.2 Exclusive Use. The exclusive use of a Limited Common Element is an appurtenance to the Unit or Units to which it is designated or assigned. The right of exclusive use of each Limited Common Element passes with the Unit to which it is assigned, whether or not separately described, and cannot be separated from it.

9. ASSOCIATION: The operation of the Condominium is by Wing South, Inc., a Florida corporation, not for profit, which shall perform its function pursuant to the following:

9.1 Articles of Incorporation. A copy of the Second Amended and Restated Articles of Incorporation of the Association is attached as Exhibit "D". Said Articles may be amended from time to time.

9.2 Bylaws. The Bylaws of the Association shall be the Second Amended and Restated Bylaws attached as Exhibit "E", as they may be amended from time to time.

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9.3 Delegation of Management. The Association may contract for the management and maintenance of the Condominium property and employ a licensed manager or management company to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, keeping of records, enforcement of rules and maintenance, repair and replacement of the Common Elements with funds made available by the Association for such purposes. The Association and its officers, however, shall retain at all times the powers and duties provided in the Condominium Act.

9.4 Membership. The membership of the Association shall be the record owners of legal title to the Units, as further provided in the Bylaws.

9.5 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 these 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, without a vote of the Unit Owners. The officers and directors of the Association have a fiduciary relationship to the Unit Owners. A Unit Owner does not have the authority to act for the Association by reason of being a Unit Owner.

9.6 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 and duties. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the Condominium Property and Association property. The Association may impose fees for the use of Common Elements or Association property. The Association has the power to enter into agreements to acquire leaseholds, memberships and other ownership, possessory or use interests in lands or facilities, regardless of whether the lands or facilities are contiguous to the lands of the Condominium.

9.7 Official Records. The Association shall maintain its Official Records as required by law. The records shall be open to inspection by members or their authorized representative's at all reasonable times. The right to inspect the records includes a right to make or obtain photocopies at the reasonable expense of the member seeking copies.

9.8 Purchase of Units. The Association has the power to purchase one or more Units in the Condominium, and to own, lease, mortgage or convey them, such power to be exercised by the Board of Directors.

9.9 Acquisition of Property. The Association has the power to acquire property, both real and personal. The power to acquire personal property shall be exercised by the Board of Directors. Except as otherwise provided in Section 9.8 above, the power to acquire ownership interests in real property shall be exercised by the Board of Directors, but only after approval by at least a majority of the Voting Interests.

9.10 Disposition of Property. Any property owned by the Association may be mortgaged, sold, leased or otherwise encumbered or disposed of as follows:

(A) Real property by the affirmative vote of seventy-five per cent (75%) of the voting interests at any annual or special meeting called for that purpose.

(B) All property, other than real property, by the affirmative vote of a majority of the entire Board of Directors, without need for authorization by the Voting Interests.

9.11 Roster. The Association shall maintain a current roster of names and mailing addresses of Unit Owners, based upon information supplied by the Unit Owners. A copy of the roster shall be made available to any member upon request. The roster will meet the requirements of Section 718.111(12)(a)7, Florida Statutes.

9.12 Limitation on Liability. Notwithstanding its duty to maintain and repair Condominium or Association property, the Association shall not be liable to individual Unit Owners for personal injury or property damage caused by the elements or Unit Owners or other persons.

9.13 Investments. To the extent permitted under the Condominium Act and the Regulations promulgated thereunder, the Association shall have the authority to invest the Association's funds in traditional, low risk investment accounts. Further, the Association shall have the right to engage a trust company manager to manage the Association's funds and reserves.

10. ASSESSMENTS AND LIENS: The Association has the power to levy and collect Assessments against each Unit and Unit Owner in order to provide the necessary funds for proper operation and management of the Condominium and for the operation of the Association. This power includes both "regular" Assessments for each Unit's share of the Common Expenses as set forth in the annual budget, and "special" Assessments for unusual, nonrecurring or unbudgeted Common Expenses. The Association may also levy special charges against any individual Unit for any amounts, other than for Common Expenses, which are properly chargeable against such Unit under this Declaration or the Bylaws. Assessments shall be levied and payment enforced as provided in Section 7 (Fiscal Management) of the Bylaws and as follows:

10.1 Common Expenses. Means the expenses of operation, maintenance, repair, replacement and insurance of the Common Elements and Association Property, the expenses of operating the Association and the Condominium and including amounts budgeted for the purpose of funding reserve accounts.

10.2 Share of Common Expenses. The owner of each Unit shall be liable for a share of the Common Expenses equal to the Owner's 1/59th share of ownership of the Common Elements and the Common Surplus.

10.3 Ownership. Assessments and other funds collected by or on behalf of the Association become the property of the Association; no Unit Owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his Unit. No Owner can withdraw or receive distribution of his share of the Common Surplus, except as otherwise provided herein or by law.

10.4 Liability for Assessments. The Owner of each Unit, regardless of how title was acquired, is liable for all Assessments or installments thereon coming due while he is the Owner. Multiple owners are jointly and severally liable. Except as provided in Section 20.3 (First Mortgage Foreclosure) below which limits the amount that a first mortgage holder is required to pay, whenever title to a condominium parcel is transferred for any reason, the new Owner becomes jointly and severally liable with the previous Owner for all Assessments which came due prior to the transfer and remain unpaid, without prejudice to any right the new Owner may have to recover from the previous Owner any amounts paid by the new Owner.

10.5 No Waiver or Excuse from Payment. The liability for Assessments may not be avoided or abated by waiver of the use or enjoyment of any Common Elements, by abandonment of the Unit on which the Assessments are made, or by interruption in the availability of the Unit or the Common Elements for any reason whatsoever. No unit Owner may be excused from payment of his share of the Common Expenses unless all Unit Owners are likewise proportionately excused from payment, except as otherwise provided in Section 20.3 (First Mortgage Foreclosure) with respect to certain mortgages.

10.6 Application of Payments; Failure to Pay; Interest; Late Fees. Assessments and installments thereon paid on or before ten (10) days after the date due shall not incur an interest charge, but all sums not paid within the ten (10) day grace period shall bear interest at the highest rate allowed by law, calculated from the date due until paid. The Association may also impose a late payment fee (in addition to interest) to the extent permitted by law. Assessments and installments thereon shall become due, and the Unit Owner shall become liable for said Assessments or installments, on the date established in the Bylaws or otherwise set by the Board of Directors for payment. All payments on account shall be applied first to interest, then to late payment fees, court costs and attorney's fees, and finally to delinquent Assessments. No payment by check is deemed received until the check has cleared.

10.7 Acceleration. If any special Assessment or installment of a regular Assessment as to a Unit is unpaid thirty (30) days after the due date, and a Claim of Lien is recorded, the Association shall have the right to accelerate the due date of the entire unpaid balance of the Unit's Assessments for that fiscal year. The due date for all accelerated amounts shall be the date the Claim of Lien was recorded in the public records. The Association's Claim of Lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, attorney's fees and costs as provided by law; and said Claim of Lien shall not be satisfied or released until all sums secured by it have been paid. The right to accelerate shall be exercised by sending to the delinquent Owner a notice of the exercise, which notice shall be sent by certified or registered mail to the Owner's last known address, and shall be deemed given upon mailing of

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the notice, postpaid. The notice may be given as part of the notice of intent to foreclose, as required by Section 718.116 of the Condominium Act, or may be sent separately.

10.8 Liens. The Association has a lien on each condominium parcel securing payment of past due Assessments, including interest and attorney's fees and costs incurred by the Association incident to the collection of the Assessment or enforcement of the lien, whether before, during or after a lien foreclosure suit. The lien is perfected upon recording a Claim of Lien in the Public Records of Collier County, Florida, stating the description of the Condominium parcel, the name of the record Owner, the Assessments past due and the due dates. The lien is in effect until barred by law. The Claim of Lien secures all unpaid assessments coming due prior to a final judgment of foreclosure. Upon full payment, the person making the payment is entitled to a satisfaction of the lien.

10.9 Priority of Lien. The Association's lien for unpaid Assessments shall be subordinate and inferior to the lien of a recorded first mortgage, but only to the extent required by law. The Association's lien shall be superior to, and take priority over, any other mortgage or lien regardless of when the mortgage or lien was recorded, except as otherwise expressly provided by law. Any Lease of a Unit shall be subordinate and inferior to the Association's lien, regardless of when the Lease was executed.

10.10 For eclosure of Lien. The Association may bring an action in its name to foreclose its lien for unpaid Assessments in the manner provided in the Condominium Act, and may also bring an action to recover a money judgment for the unpaid assessments without waiving any lien rights.

10.11 Certificate As To Assessments. Within fifteen (15) days after request by a Unit Owner or mortgagee, the Association shall provide a certificate (sometimes referred to as an "estoppel letter") stating whether all assessments and other monies owed to the Association by the Unit Owner with respect to the Condominium parcel have been paid. Any person other than the Owner who relies upon such certificate shall be protected thereby. The Association may charge a reasonable fee for the preparation of the certificate upon a motion passed by the Board of Directors in accordance with Section 718.116(8), F.S.

11. MAINTENANCE:LIMITATIONSUPONALTERATIONSANDIMPROVEMENTS. Responsibility for the protection, maintenance, repair and replacement of the Condominium property, and restrictions on its alteration and improvement shall be as follows:

11.1 Association Maintenance. The Association is responsible for the protection, maintenance, repair and replacement of all Common Elements and Association Property (other than the Limited Common Elements that are required elsewhere herein to be maintained by the Unit Owner). The cost is a Common Expense. The Association's responsibilities include, without limitation, those items which are listed as

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“Common Elements” which are owned by the Association, and any other Association Property operated for the nonexclusive use and benefit of all Owners. All incidental damage caused to a Unit or Limited Common Elements by work performed or ordered to be performed by the Association shall be promptly repaired by and at the expense of the Association, which shall restore the property as nearly as practical to its condition before the damage, and the cost shall be a Common Expense, except the Association shall not be responsible for the damage to any alteration or addition to the Common Elements made by a Unit Owner or his predecessor in title without prior written approval of the Board, which approval is required elsewhere herein.

11.2 Unit Owner Maintenance. Each Unit Owner is responsible, at his own expense, for all maintenance, repairs, and replacements of the Owner’s Unit together with all additions or improvements thereto and certain Limited Common Elements. The Owner responsibilities include, without limitation:

- (A) Maintenance, repair and replacement of improvements, including exterior painting required on the walls and roof of structures constructed on the Unit. Such maintenance shall be done without disturbing the rights of any one or more other Units; provided, however, that should the exterior appearance of improvements constructed upon an individual Unit become unsightly so as to constitute an annoyance or nuisance to any one or more other Unit Owners of the Association, the Association shall have the right to cause repairs to be performed to the improvements constructed on such an individual Unit and to assess the cost of such repairs against the Owner of the Unit. Such Assessment shall be collected by the Association as herein provided for the collection of other Assessments.
- (B) All facilities, fixtures and improvements as defined under the “Limited Common Elements” in Section 8, above.
- (C) The Unit Owner is specifically responsible for maintenance, repair and replacement of the sewer connector line from his Unit to the main sewer line, except, if part of the connector line lies under a street, any major repair or replacement of that part of the line shall be done by the Association at the Association’s expense. If two Units share the same connector line, the expense of maintenance from the point where the two lines join shall be the responsibility of the Association.
- (D) If the main sewer line requires maintenance, repair or replacement as a result of vegetation/tree roots damaging the line, the Unit owner on whose Lot the vegetation/tree(s) are located shall reimburse the Association for the expense to repair such damage.

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11.3 Other Unit Owner Responsibilities.

- (A) Modification and Alterations. If a Unit Owner makes any modifications, installations or additions to his Unit, or to the Common Elements the Unit Owner, and his successors in title, shall be financially responsible for the insurance, maintenance, repair and replacement of the modifications, installations or additions, as well as the costs of repairing any damage to the Common Elements or other Units resulting from the existence of such modifications, installations or additions, and the costs of removing and replacing or reinstalling such modifications if their removal by the Association becomes necessary in order to maintain, repair, replace, or protect other parts of the Condominium Property.
- (B) Use of Licensed and Insured Contractors. Whenever a Unit Owner contracts for maintenance, repair, replacement, alteration, addition or improvement of any portion of the Unit or Common Elements, whether with or without Board approval, such Owner shall be deemed to have warranted to the Association and its members that his contractor(s) is/are properly licensed and fully insured, and that the Owner will be financially responsible for any resulting damage to persons or property not paid by the contractor's insurance.

11.4 Alteration of Units by Unit Owners. No Owner shall make or permit the making of any material alterations or substantial additions to his Unit or any Common Element, without first obtaining the written approval of the Board of Directors, which approval may be denied if the Board of Directors determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to, the Condominium in part or in whole.

11.5 Enforcement of Maintenance. If, after reasonable notice, the Owner of a Unit fails to maintain the Unit or its appurtenant Limited Common Elements as required above, the Association may institute legal proceedings to enforce compliance and/or collection of Association expenses, or may take any and all other lawful actions to remedy such violation. Any expenses incurred by the Association in performing work within the Unit as authorized by this Declaration shall be charged to the Unit Owner, including reasonable attorney's fees, interest, fines, penalties and other expenses of collection.

11.6 Alterations and Additions to Common Elements and Association Property. The protection, maintenance, repair, insurance and replacement of the Common Elements and Association Property are the responsibility of the Association and the cost is a Common Expense. Beyond this function, the Association shall make no material alteration of, nor substantial additions to, the Common Elements or the real property owned by the Association costing more than \$30,000 in the aggregate in any 12 month period without prior approval of the Unit Owners evidenced by a majority of the total Voting Interests. Alterations or additions costing less than this amount may be made with Board approval. Except as may be provided in the Condominium Act, reserves may be spent by the Board without prior approval of the Unit

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Owners in accordance with the purposes for which the reserve account was established. If work reasonably necessary to protect, maintain, repair, replace or insure the Common Elements or Association Property also constitutes a material alteration or substantial addition to the Common Elements, no prior Unit Owner approval is required.

11.7 Negligence; Damage Caused by Condition In Unit. The Owner of each Unit shall be liable for the expenses of any maintenance, repair or replacement 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 Owners and residents. If any condition, defect or malfunction, resulting from the Owner's failure to perform this 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 to the person or entity responsible for repairing the damaged property for all costs of repair or replacement.

12. USE RESTRICTIONS: The use of the condominium property shall be in accordance with the following provisions:

12.1 Building Construction:

- (A) No building or structure on a Unit or Lot shall be constructed, erected, altered, placed or permitted to remain on any Lot other than one detached single family residence. Provided, however, that this restriction shall not apply to temporary buildings, or trailers used by Contractors in connection with construction of improvements on the property. Stilt house are not permitted.
- (B) No residence shall be erected on any Unit or Lot that shall contain less than 1,500 square feet of Enclosed Air Conditioned Living Area. Enclosed Living Area shall be determined by square feet measurement of the main residence, excluding porches, lanais, breezeways, caged pools and other screened areas, airplane hangars or garages.
- (C) The maximum height of the residence shall be two (2) stories above the finished grade of the Lot or from the minimum base flood elevation required by County Ordinance, whichever is greater.
- (D) Each residence shall include one attached airplane hangar of not less than 1,000 square feet. Each airplane hangar shall be fully enclosed on all sides and shall include a hangar door capable of being closed.

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- (E) Exterior construction of each residence shall be of wood, reinforced concrete block, brick or reinforced poured concrete.
- (F) Each residence shall be constructed entirely within the maximum building boundaries as specified and described on Exhibits "B" and "C" to the Original Declaration.
- (G) Residence roofs shall be cement tile, clay tile or metal. Other materials may be considered for approval on the basis of their appearance, fire resistance, and wind resistance. Roof eaves or overhangs shall not extend more than thirty (30) inches over the building limit/building area of the Unit.
- (H) All driveways, walkways and taxiways on a lot shall be of concrete construction, textured concrete or paver bricks.
- (I) All utility connections serving a residence shall be located underground.
- (J) Each owner shall be responsible for full compliance with all government building codes and requirements. In the event of any conflict between such requirements and use restrictions included in the Declaration or enacted by the Board of Directors, the government building codes and requirements shall control.
- (K) Each Unit Owner is responsible for site preparation, as necessary, to make his Unit suitable for construction and landscaping.

12.2 Landscaping: Each unit Owner shall be responsible for the landscaping and appearance of the Lot subject to the following specific requirements:

- (A) Landscaping plans shall be subject to approval by the Board of Directors, which approval shall not be unreasonably withheld, but which shall be based on maintaining the nature, character and appearance of the condominium, and the safe movement of an aircraft on the street and taxiways.
- (B) Each Lot upon which a residence is constructed shall have installed and operational an automatic, timed, pop-up sprinkler system which will be kept in working order.
- (C) No plantings or appurtenances of any kind which would obstruct the safe movement of aircraft shall be permitted within 25 feet of the centerline of a street or taxiway. Tree branches and foliage which overhang within the 50 foot taxiway swath must be no lower than fifteen(15) feet above the street or taxiway.
- (D) No weeds, high grass, underbrush, or other unsightly growths shall be permitted to grow or remain upon any part of the Lot. If for any reason an Owner permits such weeds, high grass, underbrush or other unsightly growths and fails to correct same after five days notice by the Association, then the Association shall have the

right to enter upon the premises and make such corrections and shall charge the Owner for the cost of the corrections. Said charge, until paid, shall be a lien against the Lot or Unit of the Owner responsible for the payment and may be collected in the same manner as Assessments for Common Expenses.

12.3 Plan/Construction/Survey Approvals: The Board of Directors shall be responsible for approving, approving with conditions or disapproving all construction and repair, including but not limited to additions, replacements, renovations and repairs as well as landscaping improvements or changes, within the Condominium, and shall make such decisions in accordance with the following policies:

- (A) The restrictions contained herein shall be required.
- (B) Prior to submitting plans for review and approval, the Owner shall be responsible for having read and understood all restrictions and conditions included herein and the owner shall submit to the Board of Directors a written and signed statement that he has done so. Failure to have done so shall not be a reason for the granting of any waivers or variances.
- (C) Subject to the provisions of the Condominium Act, the Board of Directors may, from time to time, determine and impose additional reasonable restrictions it determines are in the best interests of the Condominium and shall publish and notify all Owners of such additional restrictions in the Association's Rules and Regulations.
- (D) There shall be no discrimination in favor of or against any individual Unit Owner or prospective Owner.
- (E) Approval shall not be unreasonably withheld; however, the Board of Directors shall, at its sole discretion, base its decisions on maintaining and enhancing the nature, character and value of the Condominium.
- (F) The construction plans for any residence to be built or modified on any Unit or Lot, must be approved prior to the commencement of such construction. A complete set of constructions prints, including a plot plan showing the location of the improvements on the Lot, shall be submitted to the Board of Directors for approval. In addition, the Unit Owner shall submit elevations and details regarding exterior materials as reasonably necessary for the Board to consider the proposed improvements. The Board of Directors of the Association shall approve or disapprove such plans within thirty five (35) days of receipt.
- (G) The failure of the Association to disapprove plans submitted within the thirty-five (35) day period shall constitute approval of such plans except as to violations of restrictions contained in this instrument or other restrictions imposed by the Board of Directors prior to the submission of plans.

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- (H) All plans, specifications and other materials submitted to the Board, shall be reviewed only with respect to the compliance with the provisions of this Declaration of Condominium. No review of or compliance with any applicable governmental regulations, building or zoning codes is within the scope of the Board's review. The applicant is required to obtain all necessary governmental permits and approvals. The Board or any designee shall have no liability for any violation of any governmental regulation or any defect in design or construction of any improvement which may be reviewed and approved in accordance with the provisions of this article.
- (I) The following surveys are required to be furnished by the Owner to the Board of Directors:
1. Spot Survey – showing slab within the confines of the U nit footprint. Survey must be provided within three days after pouring the slab.
 2. Final Survey – showing complete home as built, including all driveways, taxiways, porches, slabs, and equipment pads. Survey must be provided within five days of completion.
- (J) Prior to submitting plans for review, the prospective builder shall physically locate the sewer lateral serving the property and shall show its location on the construction and site plans.
- (K) A deposit shall be required prior to commencement of construction in an amount as determined by the Board of Directors to cover possible damage to Wing South property including, but not limited to, sewers, other utilities and roadways.

12.4 Construction Completion:

- (A) When the physical construction of any residence is started, said construction shall be prosecuted diligently and completed within a reasonable time. If for any reason a building is not completed within two years from the issuance of the County Building Permit, then the Association, by and through its Board of Directors, may after ten (10) days notice to the owner of record of the Unit of its intentions, enter onto the premises and take such steps as it determines are required to correct any undesirable condition; the corrective steps taken shall be in the discretion of the Association, by and through its Board of Directors and may serve aesthetic, nuisance abatement, or other reasonable purposes. The Owner in fact of the Unit shall be liable for the costs incurred in such action and the total costs thereof will be a lien on his Lot, which lien may be foreclosed in the manner provided by law.

- (B) Upon completion of construction, or at the end of one year from the issuance of a County Building Permit, whichever occurs first, the Owner shall be assessed for lawn maintenance at the applicable residential rate.
- (C) Any structure that is built outside the maximum building boundaries for the applicable unit as defined in Article 12.1(F) must be removed at the expense of the Owner.

12.5 Unit Occupancy Restriction. Each Unit shall be occupied by only one family at any time, as a residence and for no other purpose. No business or commercial activity shall be conducted in or from any Unit. This restriction shall not be construed to prohibit any Owner from maintaining a personal or professional library, from keeping his personal, business or professional records in his Unit, or from handling his personal, business or professional telephone calls or written correspondence in and from his Unit. Such uses are expressly declared customarily incident to residential use. All occupants under eighteen (18) years of age shall be accompanied by a parent or legal guardian and closely supervised at all times to ensure that they do not become a source of annoyance to other residents.

12.6 Minimum Age of Residents. No person under the age of eighteen (18) years of age may reside without a parent or legal guardian within a unit.

12.7 Guests.

- (A) An Owner shall be allowed to have guests temporarily residing with him/her or occupying the Unit in his/her absence for a period not to exceed thirty (30) days in any twelve (12) month period.
- (B) In no event shall any Unit Owner permit his/her unit to be occupied in his/her absence by numerous successive groups of persons in a manner designed to frustrate the purpose of sections 13 and 14 of this Declaration which are to prohibit a "motel" like atmosphere and foster a cohesive community of permanent and semi-permanent residents.

12.8 Nuisances. No Owner shall use his Unit, or permit it to be used, in any manner which constitutes or causes an unreasonable amount of annoyance or nuisance to the occupant of another Unit, or which would not be consistent with the maintenance of the highest standards for a first class residential condominium, nor permit the premises to be used in a disorderly or unlawful way. The use of each Unit shall be consistent with existing laws and the condominium documents, and occupants shall at all times conduct themselves in a peaceful and orderly manner.

12.9 Exceptions. Upon prior written application by the Unit Owner, the Board of Directors may make such limited exceptions to the foregoing restrictions as may be deemed appropriate in the discretion of the Board, for the sole purpose of avoiding undue hardship or inequity. To the extent that any exception in a particular instance or with respect to any particular Unit(s) or

improvement(s) is approved pursuant to the provisions of this Declaration, the approval shall not be deemed or construed to be a precedent for the granting of any similar exception or in any other circumstance for any other Unit(s) or improvement(s).

12.10 Condominium Rules. The Board of Directors shall enact, publish and enforce reasonable Rules and Regulations concerning the appearance of the Condominium, the conduct of Owners, occupants and guests, and the operation of aircraft and vehicles in and around the Condominium property. Such rules shall be for the purpose of ensuring the peaceful and safe enjoyment of the Condominium as an airport community with a desirable quality of life.

12.11 Trash and Garbage. Garbage containers, lawn trimmings and trash placed for pickup shall comply with garbage and trash collection service rules and must be placed no closer than fifteen (15) feet from the edge of the street. With the exception of garbage and trash properly placed for pickup, no refuse or unsightly objects shall be permitted to accumulate on any Unit. Except when put out for pickup, garbage containers shall be screened from view from any street or taxiway within the Condominium. Tree and landscape trimmings shall not be disposed of on vacant Units.

12.12 Signs. No sign or advertising matter shall be placed on a Unit or any common area adjacent to a Unit, except one sign of not more than two (2) square feet in total area which shall identify only the name and address of the Owner, and except a standard sign while the Unit is being offered for sale, rent, or conducting a garage sale. No permitted sign shall be placed closer than fifteen (15) feet from the edge of the street.

12.13 Exterior Appliances. All exterior appliances, containers and/or mechanical equipment utilized to supply any utility and/or service to the Unit shall be situated in such a manner that it shall not detract from any property values or otherwise constitute a nuisance as determined by the Board.

12.14 Drying Lines. No outdoor drying lines or other outdoor apparatus for the drying of laundry shall be permitted on a Unit.

12.15 Electrical Devices. Any electrical device which interferes with aircraft communication shall be prohibited.

12.16 Minors. Occupants and guests under eighteen (18) years of age are not permitted on the tie-down area, the taxiways adjacent to the runway, or on the runway unless under the supervision of an adult occupant or guest. Unit Owners or Primary Occupants are required to instruct all minors occupying their residence of safe conduct practices regarding aircraft operations.

12.17 Pets and Animals. Raising, breeding or the keeping of animals, livestock, or poultry of any kind is prohibited, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit; however, those pets which, at the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or

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inconvenience to the occupants of other Units shall be removed upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise controlled in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed and inoculated as required by law.

13. LEASING OF UNITS: The leasing of Units by their owners shall be restricted as provided in this Section. All Leases of Units must be in writing. A Unit Owner may Lease a Unit only in accordance with this Section, after receiving the approval of the Association. The Lessee must be a natural person. A proposed lease shall be disapproved only if a majority of the whole Board so votes and such disapproval shall be based on those grounds as set forth in paragraph 14.3 (C)(1) of this Declaration.

13.1 Procedures. Any Owner desiring to lease his Unit shall submit such request in writing to the Board of Directors setting forth the proposed lease and any other information as may be required by the Association.

13.2 Term of Lease and Frequency of Leasing. The minimum Lease period is ninety (90) days.

13.3 Regulation by Association. All of the provisions of the Condominium Documents and the Rules and Regulations of the Association shall be applicable and enforceable against any person occupying a Unit as Lessee or guest to the same extent as against the Owner. A covenant on the part of each Occupant to abide by the Rules and Regulations of the Association and the provisions of the Condominium Documents, designating the Association as the Owner's agent with the authority to terminate any Lease agreement and evict the Tenants in the event of breach of such covenant, shall be deemed to be included in every Lease agreement, whether oral or written, and whether specifically expressed in such agreement or not.

13.4 Fees and Deposits Related to the Lease of Units. Whenever herein the Board's approval is required to allow the Lease of a Unit, the Association may charge the owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law. No fee may be charged for approval of a renewal or extension of a Lease with the same Lessee.

14. TRANSFER OF OWNERSHIP OF UNITS: In order to maintain a community of congenial, financially responsible residents with the objectives of protecting the value of the Units, and facilitating the development of peace of mind for all residents, the transfer of Ownership of a Unit shall be subject to the following provisions:

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14.1 Forms of Ownership.

- (A) One Person A Unit may be Owned by one natural person who has qualified and been approved as elsewhere provided herein.
- (B) Two or More Persons. Co-ownership of Units by two natural persons is permitted. If the co-owners are more than two natural persons, the Board shall condition its approval upon the designation of not more than two natural persons as "Primary Occupants". The Primary Occupants will be considered as the only actual Owners, and use of the Unit by the other Owners is subject to the provisions relating to guest occupancy restrictions in section 12.8 above.
- (C) Ownership by Corporations, Partnerships or Trusts. A Unit may be owned in trust, or by a corporation, partnership or other entity which is not a natural person, if approved in the manner provided elsewhere herein. The intent of this provision is to allow flexibility in estate, financial or tax planning. The approval of a trustee, or corporation, partnership or other entity as a Unit Owner shall be conditioned upon designation by the Owner of not more than two natural persons to be the "Primary Occupant(s)". The use of the Unit by other persons shall be as if the Primary Occupant(s) were the one actual Owner(s), and such use by others is subject to the provisions relating to guest occupancy restrictions in Section 12.8, above.
- (D) Designation of Primary Occupant. Within thirty (30) days after the effective date of this provision, each Owner of a Unit which is owned in the forms of ownership stated in preceding subsections 14.1(B) and (C) shall designate not more than two Primary Occupants in writing to the Association. If any Unit Owner fails to do so, the Board of Directors may make the initial designation for the Owner, and shall notify the Owner in writing of its action.
- (E) Life Estate. A Unit may be subject to a life estate, either by operation of law or by a voluntary conveyance approved under 14.2 below. In that event, the life Tenant shall be the only Association member from such Unit, and occupancy of the Unit shall be as if the life Tenant were the only Owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy rights unless separately approved by the Association. The life Tenant shall be liable for all Assessments and charges against the Unit. Any consent or approval required of Association members may be given by the life Tenant alone, and the consent or approval of the holders of the remainder interest shall not be required. If there is more than one life Tenant, they shall be treated as co-owners for purposes of determining voting and occupancy rights under Section 14.1(B), above.

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14.2 Transfers.

- (A) Sale or Gift. No Unit Owner may dispose of a Unit or any ownership interest in a Unit by sale or gift (including agreement for deed) without prior written approval of the Board of Directors.
- (B) Devise or Inheritance. If any Unit Owner acquires his title by devise or inheritance, his right to occupy or use the Unit shall be subject to the approval of the Board of Directors under Section 14.3(A)(2) below dealing with the inheritance or devise of a Unit. The approval shall not be denied to any devisee or heir who was the prior owner's lawful spouse at the time of death, or was related to the Owner by blood or adoption within the first degree.
- (C) Other Transfers. If any person acquires title in any manner not considered in the foregoing subsections, that person shall have no right to occupy or use the Unit before being approved by the Board of Directors under the procedures outlined in Section 14.3 below.
- (D) Ad Hoc Committee. To facilitate transfers 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 (3) members of the Association. 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.
- (E) To facilitate the ability of the Association to maintain current records, all new Owners shall provide a copy of the recorded instrument which transferred title to the Secretary of the Association as well as a current telephone number and E-mail address, if available. In addition, all Owners shall notify the Secretary of the Association of any change of address and other personal information in order that the membership roster will be kept up to date.

14.3 Procedures.

- (A) Notice to Association.
 - (1) Sale or Gift. An Owner intending to make a sale or gift of his Unit or any interest therein shall give to the Board of Directors or its designee written notice of such intention at least thirty (30) days before the intended closing date, together with the name and address of the proposed purchaser or donee, a copy of the executed sales contract, if any, and such other information as the Board may reasonably require. A personal interview by

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the Board with any purchaser or donee and his/her spouse, if any, may be required as a pre-condition to approval.

- (2) Devise Inheritance or Other Transfers. The transferee must notify the Board of Directors of his ownership and submit a certified copy of the instrument evidencing his ownership and such other information as the Board may reasonably require. The transferee shall have no occupancy or use rights until and unless approved by the Board, but may sell or lease the Unit following the procedures in this Section or Section 13, respectively.
 - (3) Demand. With the notice required in Subsection (A) (1) above, the Owner or transferee seeking approval may make a written demand that if the transfer is disapproved without good cause, the Association shall furnish an approved alternate purchaser who shall purchase the Unit at the same price and upon substantially the same terms as in the disapproved sales contract, or if no contract is involved, for the fair market value of the Unit determined as provided below.
 - (4) Failure to Give Notice. If no notice is given, the Board of Directors, at its election, may approve or disapprove at the time it learns of the transfer. If any Owner fails to obtain the Association's approval prior to selling an interest in a Unit, such failure shall create a rebuttable presumption that the seller and the purchaser intend to violate the covenants of this Declaration, and shall constitute good cause for Association disapproval.
- (B) Board Action. Within ten (10) days after receipt of the required notice and all information or interviews requested, or not later than twenty (20) days after the notice required by paragraph (A) above is received, whichever occurs first, the Board shall approve or disapprove the transfer. If a transfer is approved, the approval shall be stated in a Certificate of Approval executed by the President or Vice-President of the Association in recordable form and delivered to the transferee. If the Board neither approves nor disapproves within the time limits as set forth above, such failure to act shall be deemed the equivalent of approval and on demand the Board shall issue a Certificate of Approval to the transferee.
- (C) Disapproval.
- (1) With Good Cause. Approval of the Association shall be withheld for good cause only if a majority of the whole Board so votes, after receiving a written opinion of counsel that good cause exists, only the following may be deemed to constitute good cause for disapproval:
 - (a) the person seeking approval has been convicted of a felony involving violence to persons or property, a felony involving

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possession or sale of a controlled substance, or a felony demonstrating dishonesty or moral turpitude;

- (b) the person seeking approval has a record of financial irresponsibility, including without limitation prior bankruptcies, foreclosures or bad debt;
- (c) the person seeking approval gives the Board reasonable cause to believe that person intends to conduct himself in a manner inconsistent with the covenants and restrictions applicable to the Condominium;
- (d) the person seeking approval has a history of disruptive behavior or disregard for the rights or property of others;
- (e) the person seeking approval has evidenced, by his conduct, an attitude of disregard for Association rules or rights or property of others;
- (f) the person seeking approval has failed to provide the information, fees or interviews required to process the application in a timely manner, or provided false information during the application process;
- (g) the transaction, if a sale or gift, was concluded by the parties without having sought and obtained the prior approval required herein.

- (2) Without Good Cause. The Association's approval shall not be denied unless a majority of the whole Board so votes. If the Board disapproves without good cause, and if the owner or transferee has made the demand set forth in Section 14.3(A) (3), then within thirty (30) days after the Board meeting at which the disapproval took place, the Board shall deliver in writing to the Owner (hereafter "the seller") the name of an approved purchaser who will purchase the Unit at the same price, and upon substantially the same terms, as in the disapproved sales contract. If no sales contract was involved, or if the Association challenges the contract price as not being a good faith purchase price, then the purchase price shall be paid in cash, and the price to be paid shall be determined by agreement, or in the absence of agreement, shall be the fair market value determined by the arithmetic average of appraisals by two state-certified property appraisers, one selected by the seller and the other by the Association. The cost of the appraisals, and all other closing costs in cases

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where no sales contract is involved, shall be shared equally by the buyer and seller, except that the purchaser shall pay for his own title insurance, and all costs of mortgage financing. Real property taxes and condominium assessments shall be prorated to the day of closing and the parties shall bear their own attorney's fees, if any. The closing shall take place not longer than sixty (60) days after the date of Board disapproval or thirty (30) days after determination of fair market value by appraisal, whichever occurs last. Failure or refusal to close by either party shall constitute a breach of contract and shall entitle the other party to seek specific performance or damages.

- (3) If the Board fails to deliver the name of the approved purchaser within thirty (30) days as required above, then the original proposed purchaser shall be deemed to be approved, despite the Board's former disapproval, and upon demand a Certificate of Approval shall be issued.

14.4 Exception. The provisions of Section 14.2 and 14.3 are not applicable to the acquisition of title by a first mortgagee who acquires title through the mortgage, whether by foreclosure or deed in lieu of foreclosure.

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

14.6 Fees and Deposits Related to the Sale of Units. Whenever herein the Board's approval is required to allow the sale or other transfer of an interest in a Unit, the Association may charge the Owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law as it may be amended from time to time. The Association may also require any deposits that are authorized by the Condominium Act as amended from time to time.

15. INSURANCE: In order to adequately protect the Association and its members, insurance shall be carried and kept in force at all times in accordance with the following provisions:

15.1 By the Unit Owner. Each Unit Owner is responsible for insuring his own Unit and the personal property therein. The Owner bears financial responsibility for loss or damage to his property and for liability to others whether or not such loss or liability is covered by insurance. Each Owner shall promptly repair any damage to his residence or lot so as to restore the improvements to their condition as they existed prior to such loss.

15.2 Association Insurance; Duty and Authority to Obtain. The Board of Directors shall obtain and keep in force the insurance coverage which it is required to carry by law and under

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the Condominium Documents, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The name of the insured shall be the Association and the Unit Owners without naming them, and their mortgagees, as their interests shall appear. To the extent permitted by law, the Association may self-insure.

15.3 Required Coverage. The Association shall maintain adequate insurance covering all of the buildings owned by the Association and the Common Elements as well as all Association Property, in amounts determined annually by the Board of Directors, such insurance to afford the following protection:

- (A) Property. Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by what is commonly known as an "All Risk" property contract.
- (B) Flood. In amounts deemed adequate by the Board of Directors, as available through the National Flood Insurance Program.
- (C) Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors, with cross liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner, if appropriately affordable.
- (D) Statutory Fidelity Bond.
- (E) Broad Form Comprehensive General Liability Endorsement.
- (F) Directors and Officers Liability.
- (G) Workmens Compensation. If and as necessary.

15.4 Optional Coverage. The Association may purchase and carry other such insurance coverage as the Board of Directors may determine to be in the best interest of the Association and Unit Owners.

15.5 Description of Coverage. A detailed summary of the coverage included in the master policies, and copies of the master policies, shall be available for inspection by Unit Owners or their authorized representatives upon request.

15.6 Waiver of Subrogation. If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogation as to any claim against the Unit Owners, or their respective servants, agents or guests, except for any claim based upon gross negligence evidencing reckless, willful or wanton disregard for life or property, if appropriately affordable.

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15.7 Insurance Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees as their interests may appear, and all proceeds from policies purchased by the Association shall be payable only to the Association. The duty of the Association shall be to receive such proceeds as are paid, and to hold the same in trust, and disburse them for the purposes stated herein and for the benefit of the Unit Owners and their respective mortgagees.

15.8 Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the Unit Owners in the following manner:

- (A) **Cost of Reconstruction or Repair.** If the damage for which the proceeds are paid is to be reconstructed or repaired by the Association, the remaining proceeds shall be paid to defray the costs thereof. Any proceeds remaining after defraying costs shall be retained by the Association as a Common Surplus.
- (B) **Failure to Reconstruct or Repair.** If it is determined in the manner elsewhere provided herein that the damages for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall be retained by the Association as a Common Surplus.

15.9 Association as Agent. The Association is hereby irrevocably appointed as agent for each Unit Owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the condominium property.

15.10 Obligation to Repair. Each Unit Owner has an absolute obligation to repair any and all damage to their Unit in order that community values are maintained. All repairs and/or replacements shall incorporate improved design, materials and construction standards. Unit Owners shall comply with the provisions of Section 12 (Use Restrictions).

16. RECONSTRUCTION OR REPAIR AFTER CASUALTY: If any part of the condominium property is damaged by casualty, whether and how it shall be reconstructed or repaired shall be determined as follows:

16.1 Damage to Units. Where loss or damage occurs within one or more Units, any Association insurance proceeds on account of the loss or damage shall be distributed to the Owner(s) of the damaged Unit(s) in shares as provided in Section 15.7, above. The Owner(s) of the damaged Unit(s) shall be responsible for reconstruction and repair, and shall bear the burden of the deductible in the same shares as they received the benefits of the Association's coverage.

16.2 Damage to Common Elements - Less than "Very Substantial". Where loss or damage occurs to the Common Elements, but the loss is less than "very substantial", as

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hereinafter defined, it shall be mandatory for the Association to repair, restore and rebuild the damage caused by the loss, and the following procedures shall apply:

- (A) The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of repair and restoration, and shall negotiate and contract for repair and reconstruction. If the Board determines that repairs may not be economically feasible or would not enhance the value of the community, it may use the funds toward design and construction upgrades.
- (B) If the proceeds of insurance and available reserves are insufficient to pay for the cost of repair and reconstruction of the Common Elements, the Association shall promptly, upon determination of the deficiency, levy a special assessment against all Unit Owners in proportion to their shares in the Common Elements for the deficiency. Such special assessments need not be approved by the Unit Owners. The proceeds from the special assessments shall be added to the funds available for repair and restoration of the property.

16.3 "Very Substantial" Damage. As used in this Declaration, the term "very substantial" damage shall mean loss or damage caused by a common occurrence whereby at least three-fourths (3/4ths) of the Common Elements cannot reasonably be rendered usable within sixty (60) days. Should such "very substantial" damage occur then:

- (A) The Board of Directors and the officers, or any of them, are authorized, regardless of any other provision of this Declaration, to take such action as may reasonably appear to be necessary under emergency conditions to evacuate or shore-up structures and salvage property, to engage security to protect against looting or other criminal acts, and alter the Association property as might be reasonable under the circumstances to protect the Association property from further damage or deterioration. This authority includes the authority to expend any and all available association funds.
- (B) The Board of Directors shall endeavor to obtain comprehensive, detailed estimates of the cost of repair and restoration.
- (C) A membership meeting shall be called by the Board of Directors to be held not later than sixty (60) days after the Board has obtained the estimates, to determine the opinion of the membership with reference to rebuilding of the damaged property or termination of the Condominium, subject to the following:
 - (1) If the insurance proceeds, reserves and other association funds available for the restoration and repairs that are the Association's responsibility are sufficient to cover the estimated cost thereof so that it is reasonably anticipated that the repairs and reconstruction can be accomplished with a

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special Assessment not exceeding fifteen percent (15%) of the total annual budget for the year in which the casualty occurred, then the damaged property shall be restored or repaired unless two-thirds (2/3rds) of the total voting interests who are present and voting, in person or by proxy and who vote for termination, in which case the Condominium shall be terminated.

- (2) If upon the advice of legal counsel, it appears unlikely that the then applicable zoning or other regulatory laws will allow reconstruction of the Common Element property; or if the insurance proceeds, reserves and other Association funds available for restoration and repair are not sufficient to cover the estimated cost thereof so that it is reasonably anticipated that the repairs and reconstruction can only be accomplished by levying special Assessments exceeding fifteen percent (15%) of the total annual budget for the year in which the casualty occurred, then unless two-thirds (2/3rds) of the total Voting Interests who are present and voting, in person or by proxy and who vote in favor of such special Assessment and against termination of the Condominium, it shall be terminated and the property removed from the provisions of the Condominium Act. If the requisite number of Unit Owners approve reconstruction, the Board of Directors shall levy such Assessments as are necessary and shall proceed to negotiate and contract for necessary repairs and restoration. The proceeds from the special Assessments shall be added to the funds available for repair and restoration of the property.

- (D) If any dispute shall arise as to whether "very substantial" damage has occurred, or as to the amount of special Assessments required, a determination approved by at least two-thirds (2/3rds) of the Board of Directors shall be conclusive, and shall be binding upon all unit owners.

16.4 Application of Insurance Proceeds. It shall always be presumed that monies disbursed for repair and restoration come first from insurance proceeds; if there is a balance left in the funds held by the Association after the payment of all costs of repair and restoration, such balance shall be retained by the Association as Common Surplus.

16.5 Equitable Relief. In the event of damage to the Common Elements which renders any Unit uninhabitable or prevents access, and the damage to the Common Elements is not repaired, reconstructed, or rebuilt within a reasonable period of time, the Owner of the uninhabitable or inaccessible Unit 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 conclusively 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 nine (9) months thereafter.

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16.6 Plans and Specifications. Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the original Unit as modified, improved or modernized, or according to different plans and specifications approved by the Board of Directors. Such approvals may not be unreasonably withheld. However, no change in plans and specifications shall reduce the Common Elements nor shall Unit boundaries or Unit dimensions be changed from those shown on Exhibits "B" and "C".

17. CONDEMNATION:

17.1 Deposit of Awards with Association. 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 charge shall be made against a defaulting Unit Owner in the amount of his award, or the amount of that award shall be set off against any sums payable to that Owner.

17.2 Determination Whether to Continue Condominium. Whether the Condominium will be continued after condemnation will be determined in the same manner provided in section 16, above, for determining whether damaged property will be reconstructed and repaired after a casualty.

17.3 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 (section 15, above) when the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, but 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 (section 16, above).

17.4 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.

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

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- (A) Restoration of Unit. The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be paid by 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 mortgagee(s).

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

- (A) Payment of Award. The fair market value of the Unit 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 some or all Unit Owners in a manner approved by the Board of Directors.
- (C) Adjustment of Shares in 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 Unit Owners who will continue as Owners of Units after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the 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 and the Association

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shall each appoint one certified real property appraiser, who shall appraise the Unit and determine the fair market value by computing the arithmetic average of their appraisals of the Unit. If there is a first mortgage, the first mortgagee shall have the right, but not the obligation, to appoint a third state certified appraiser to participate in this process. A judgment of specific performance upon the fair market value calculated in this manner may be entered in any court of competent jurisdiction. Each party shall bear the cost of his own appraiser.

17.7 Taking of Common Elements. Awards for the taking of Common Elements only shall be used to make the remaining portion of the Common Elements usable in a 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. If a Unit is mortgaged, the remittance shall be paid jointly to the Owner and mortgagee(s) of the Unit.

17.8 Amendment of Declaration. Any changes in Units and in the Common Elements, in the Ownership of the Common Elements, and in the sharing of Common Expenses that are necessitated by condemnation shall be accomplished by amending this Declaration and all Exhibits attached thereto in conformity to the changes mandated by Sections 17.5 and 17.6 above. Such amendment need be approved only by the Owners of a majority of the Units. Approval of or joinder by lien holders is not required for any such amendment.

18. TERMINATION: The Condominium may be terminated in the following manner:

18.1 Agreement. The Condominium may be terminated at any time by written agreement of the Owners of at least eighty percent (80%) of the entire membership of the Association.

18.2 General Provisions. Upon termination, the former Unit Owners shall become the Owners, as Tenants in common, of all Condominium and Association 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, and the costs of termination, as well as post-termination costs of maintaining the former Condominium property, shall be Common Expenses, the payment of which shall be secured by a lien on the interest owned by each Tenant in common. 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 assets of the Association which he may become entitled to receive by reason of such termination. The termination of the Condominium shall be evidenced by a certificate of the Association, executed with the formalities of a deed, and certifying as to the facts effecting the termination. Termination shall become effective when that certificate is recorded in the Public Records of Collier County, Florida.

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

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18.4 Partition: Sale. Following termination, the former Condominium property and Association Property may be partitioned and sold upon the application of any Unit Owner. If following a termination, at least eighty percent (80%) of the entire membership of the Association who are voting, in person or by proxy and who agree to accept an offer for the sale of the property, all Owners shall be bound to execute deeds and other documents reasonably required to effect the sale. In that event, any action for partition of the property shall be held in abeyance pending the sale, and upon the consummation of the sale shall be discontinued by all parties thereto.

18.5 Last Board. The termination of the Condominium does not, by itself, terminate the Association. The members of the last Board of Directors and the officers of the Association shall continue to have the powers granted in this Declaration and by law for the purpose of winding up the affairs of the Association.

18.6 Provisions Survive Termination. The provisions of this Section 18 are covenants running with the land, and shall survive the termination of the Condominium until all matters covered by those provisions have been completed.

19. ENFORCEMENT:

19.1 Duty to Comply; Right to Sue. Each Unit Owner, his Tenants and Guests, and the Association shall be governed by and shall comply with the provisions of the Condominium Act, the Condominium Documents and the Rules and Regulations of the Association. Actions for damages or for injunctive relief, or both, for failure to comply may be brought by the Association or by a Unit Owner against:

- (A) The Association;
- (B) A Unit Owner;
- (C) Anyone who occupies or is a Tenant or Guest in a Unit; or
- (D) Any member of the Board of Directors who willfully and knowingly fails to comply with these provisions.

19.2 Waiver of Rights. The failure of the Association or any member to enforce a 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. A provision of the 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 Directors may waive notice of specific meetings as provided in the Bylaws.

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19.3 Attorney's Fees. In any legal proceeding arising out of an alleged failure of a Guest, Tenant, Unit Owner or the Association to comply with the requirements of the Condominium Act, the Condominium Documents, or the Association's Rules and Regulations, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such attorney's fees as may be awarded by the court.

19.4 No Election of Remedies. All rights, remedies and privileges granted to the Association or Unit Owners under the law and the Condominium Documents shall be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising any other rights, remedies, or privileges that may be available.

20. RIGHTS OF MORTGAGEES:

20.1 Approvals. Written consent of the institutional mortgagee of a Unit shall be required for any amendment to the Declaration which would decrease the Unit's share of ownership of the Common Elements.

20.2 Notice of Casualty or Condemnation. In the event of condemnation, eminent domain proceedings, or very substantial damage to, or destruction of, any Unit or any part of the Common Elements, the record holder of any first mortgage on an affected Unit shall be entitled to notice.

20.3 First Mortgage Foreclosure. If the mortgagee of a first mortgage of record acquires title to a condominium parcel as a result of foreclosure of the mortgage, or as the result of a deed given in lieu of foreclosure, the liability of the first mortgagee for the unpaid Common Expenses or Assessments attributable to the Condominium parcel, or chargeable to the former Owner of the parcel, which came due prior to the first mortgagee's acquisition of title, shall be limited to the amount the first mortgagee is required to pay in accordance with the Condominium Act, as it may be amended from time to time. No acquirer of title to a Condominium parcel by foreclosure, or by a deed in lieu of foreclosure, may be excused from the payment of any Assessments coming due during the period of such ownership.

20.4 Redemption. If proceedings are instituted to foreclose any mortgage or lien on any Unit, the Association, on behalf of one or more Unit Owners and with the permission of the mortgagee, may redeem the mortgage or lien for the amount due thereon and be thereby subrogated to all of the mortgagee's or lienor's rights of action, or the Association may purchase the Unit at the foreclosure sale. Any mortgagee shall have an unrestricted, absolute right to accept title to the Unit in settlement and satisfaction of the mortgage or to foreclose its mortgage in accordance with its terms, and to bid upon the unit at the foreclosure sale.

20.5 Right to Inspect Books. The Association shall make available to institutional mortgagees requesting same, current copies of the condominium documents and the books,

records and financial statements of the Association. "Available" shall mean ready for inspection, upon written request, during normal business hours, or under other reasonable circumstances. Photocopies shall be provided at the expense of the person requesting them.

20.6 Financial Statement. Any institutional mortgagee is entitled, upon written request, to a copy of the most recent financial report or financial statement of the Association.

20.7 Lender's Notices. The Board of Directors may provide or upon written request to the Association, any institutional mortgagee shall be entitled to timely written notice of:

- (A) Any sixty (60) day or longer delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which it holds a mortgage.
- (B) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association. An increase in coverage shall not be deemed a material modification under this paragraph, nor shall any change in coverage which is mandatory under the Condominium Act as amended from time to time.
- (C) Any proposed action that requires the consent of a specified percentage of mortgage holders.

21. AMENDMENT OF DECLARATION: All amendments to this Declaration shall be proposed and adopted in the following manner:

21.1 Proposal. Amendments to this Declaration may be proposed by a majority of the Board of Directors, or by written petition to the Board signed by at least twenty-five percent (25%) of the Voting Interests.

21.2 Procedure. Upon any amendment or amendments to this Declaration being proposed as provided in Section 21.1 above, such proposed amendment or amendments shall be submitted to a vote of the members not later than the next annual meeting for which proper notice can still be given.

21.3 Vote Required. Except as otherwise provided by law, or by specific provision of the condominium documents, the Declaration may be amended if the proposed amendment is approved by at least sixty-six percent (66%) of the Voting Interests who are present and voting, in person or by proxy, at any annual or special meeting called for the purpose, provided that notice of the proposed amendment has been given to the members according to law and a quorum is established. Alternatively, amendments may be adopted without a meeting following the procedure set forth in Article 2 of the Bylaws.

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

21.5 Proviso. No amendment may change the boundaries or size of any Unit in any material fashion, materially alter or modify the appurtenances to the Unit, or change the proportion or percentage by which the Owner of a parcel shares the Common Expenses and owns the Common Surplus, unless all record Owners of the Unit, and any institutional mortgagee holding a mortgage on the Unit, consent in writing to the amendment. This proviso does not apply to changes caused by condemnation or a taking by eminent domain. No amendment shall operate to unlawfully discriminate against any Unit Owner or against any class of Unit Owners.

21.6 Enlargement of Common Elements. The Common Elements designated by this Declaration may be enlarged to add real property acquired by the Association through amendment of Exhibit "A" to this Declaration. The amendment must be approved in the manner provided in Section 21.3 above by sixty-six per cent (66%) of the Voting Interests represented at a meeting in which a quorum is present. Any such amendment shall divest the Association of title and vests title in the Unit Owners without naming them and without further conveyance, in the same proportion as the undivided shares in the Common Elements that are appurtenant to the Units.

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

22. MISCELLANEOUS:

22.1 Severability. The invalidity or unenforceability 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, or any recorded exhibit to this Declaration, shall not affect the remaining portions.

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

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

Declaration and the Association's Articles of Incorporation or Bylaws, the Declaration shall control.

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

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

22.6 Singular, Plural and Gender. Whenever the context so requires, the use of the plural shall include the singular and the plural, and the use of any gender shall be deemed to include all genders.

22.7 Headings. The headings used in the condominium documents are for reference purposes only, and do not constitute substantive matter to be considered in construing the terms and provisions of these documents.

(Remainder of Page Left Blank- Signature on Next Page)

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IN WITNESS WHEREOF, the Association has caused these presents to be executed this 6 day of February, 2007.

WING SOUTH, INC.,
a Florida not-for-profit corporation

Witnesses:

RAD
Print Name: Ricardo Aron

[Signature]
Print Name: DANIEL BARRACLOUGH

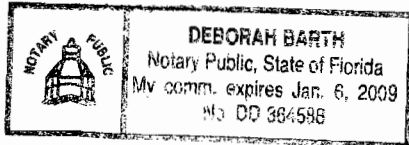
By: [Signature]
Peter G. Bolton, President

(corporate seal)

STATE OF FLORIDA)
) ss.
COUNTY OF COLLIER)

The foregoing Certificate was acknowledged before me this 6 day of February, 2007 by Peter G. Bolton, as President of Wing South, Inc., a Florida not-for-profit corporation, on behalf of said corporation, who is () personally known to me or (X) has produced FL DL as identification.

(SEAL)



Deborah Barth
Notary Public
Name: Deborah Barth
(Type or Print)
My Commission Expires: Jan 6, 2009

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EXHIBITS TO THE DECLARATION OF CONDOMINIUM

The original Declaration of Condominium of Wing South Airpark Private Villas, Inc., a Condominium was recorded in Official Record Book 476, Page 304 of the Public Records of Collier County, Florida, and was amended by various instruments also recorded in the Public Records of Collier County, Florida. The Declaration of Condominium, as amended, contained certain exhibits thereto. Said exhibits to the Declaration of Condominium, as amended, were incorporation and/or restated by reference in that certain Amended and Restated Declaration of Condominium recorded at Official Record Book 2042, Page 768 of the Public Records of Collier County, Florida.

The following exhibits, as previously amended to date, are hereby incorporated by reference as exhibits to this Second Amended and Restated Declaration of Condominium.

Exhibit "A"- Legal Description
Exhibits "B" and "C"- Survey, Plot Plan, Units Plans

In addition, the following Exhibits are completely amended and restated in their entirety and the restatements are attached hereto and recorded herewith:

Exhibit "D"- Articles of Incorporation of the Association
Exhibit "E"- Bylaws of the Association

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