

AMENDED AND RESTATED DECLARATION OF CONDOMINIUM

FOR

LE CIEL VENETIAN TOWER, A CONDOMINIUM

KNOW ALL BY THESE PRESENTS:

That heretofore, the original Declaration of Condominium for Le Ciel Venetian Tower, a Condominium, (the "Condominium") was recorded in O.R. Book 2044, Page 3, Public Records of Collier County, Florida. The original Declaration of Condominium, as it has previously been amended, is hereby amended and restated.

1. **SUBMISSION TO CONDOMINIUM OWNERSHIP:** This Amended and Restated Declaration of Condominium (the "Declaration") is made by Le Ciel Venetian Tower Association, Inc., a Florida corporation not for profit. The land subject to this declaration and the improvements located thereon have already been submitted to condominium ownership and use pursuant to the Condominium Act (as defined below). 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 the condominium is Le Ciel Venetian Tower, a condominium, and its street address is 3971 Gulf Shore Boulevard North, Naples, FL 34103.

3. **DESCRIPTION OF CONDOMINIUM PROPERTY:** The land submitted to the condominium form of ownership by the original declaration, as amended (the "Land") is legally described in Exhibit "A" attached hereto.

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 the units.

4.2 **"Association"** means Le Ciel Venetian Tower Association, Inc., a Florida Corporation not for profit, the legal entity responsible for the operation of the condominium.

4.3 **"Association Property"** means all property, real or personal, which is owned or leased by or is dedicated by a recorded plat to, the association for the use and benefit of the unit owners, including real property acquired by deeds recorded in O.R. Book 2044, Page 1, O.R. Book 2364, Page 2454, O.R. Book 2364, Page 2439, O.R. Book 2364, Page 2442, O.R. Book 2364, Page 2452, less real property conveyed by deed recorded in O.R. Book 2364, Page 2459, all of the Public Records of Collier County, Florida.

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 that is sometimes referred to in the Condominium Act as the "Board of Administration".

4.5 "Common Elements" means the portions of the condominium property not included within the units.

4.5.1 "Common Expenses" means all expenses properly incurred by the association in the performance of its duties, including expenses specified in Section 718.115 of the Condominium Act.

4.6 "Common Surplus" means the amount of all receipts or revenues, including assessments, rents, or profits, collected by the association which exceeds common expenses.

4.7 "Condominium Documents" means and includes this declaration, all recorded exhibits hereto and any unrecorded Rules and Regulations, all as amended from time to time. The exhibits attached to this Declaration are as follows:

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|----|---|-------------|
| A. | Land | Exhibit "A" |
| B. | Condominium Plat | Exhibit "B" |
| C. | Amended and Restated Articles of Incorporation | Exhibit "C" |
| D. | Amended and Restated Bylaws | Exhibit "D" |
| E. | Undivided Shares - Common Elements and Common Surplus | Exhibit "E" |

4.7.1 "Condominium Property" means the Land and personal property that were subjected to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the Condominium.

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

A. One person (as used in this Declaration, the term "person" shall mean a real person as opposed to an artificial entity such as a corporation, partnership, or trust).

B. 2 or more persons who commonly cohabit a Unit, each of whom is related by blood, marriage, adoption, or legal custody to each of the others.

C. Not more than 2 persons not related by blood, marriage, adoption, or legal custody, who commonly and regularly reside together as a single housekeeping unit and who also function together as an integrated economic unit, along with their children, if any. A Unit may be occupied by a Family, Lessees, and their Guests.

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

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

4.10 "Guest" means any person who is not the Unit Owner or a Tenant or a member of the Unit Owner's or Tenant's Family, who is physically present in, or occupies the Unit on a temporary basis at the invitation of the Unit Owner or other permitted Occupant, without the payment of consideration. The term "Guest" also includes any person who is not the Unit Owner or a Tenant, who uses the "Guest Suites" (as defined in Section 7.1.5 below) with permission from the Unit Owner and the Association.

4.11 "Institutional Mortgagee" means the mortgagee (or its assignee) of a first mortgage against a Condominium Parcel, which mortgagee is a bank, savings and loan association, mortgage 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 "Primary Institutional Mortgagee" means that Institutional Mortgagee which, at the time a determination is made, holds first mortgages on more Units in the Condominium than any other Institutional Mortgagee, such determination to be made by reference to the number of Units encumbered, and not by the dollar amount of such mortgages.

4.13 "Lease" means the grant by a Unit Owner of a temporary right of use of the Owner's Unit for valuable consideration. "Lessee" means the person(s) whom the Unit Owner has granted a temporary right of use of the Owner's Unit for valuable consideration. The term "Tenant" is substituted for "Lessee" in certain instances in the Condominium Documents for the purpose of consistency with the Condominium Act.

4.14 "Limited Common Elements" means and includes those Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of other Units and as shown on the Condominium Plat or otherwise specified in this Declaration. References herein to Common Elements shall include all Limited Common Elements unless the context would prohibit it or it is otherwise expressly provided.

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 a person designated to occupy a Unit when title to the Unit is held in the name of 2 or more persons who are not spouses, or by a trustee, corporation, limited liability company, partnership or other entity which is not a person, as required by Section 14 herein.

4.17 "Rules and Regulations" means those rules and regulations promulgated by the Board of Directors, subject to any limits set forth in this Declaration.

4.18 "Unit" means and refers to that portion of the Condominium Property which is subject to exclusive ownership and is referred herein to each of the separate and identified Units referenced in Section 6.1 herein and delineated in Exhibit "B".

4.19 "Unit Owner" or "Owner" means and refers to the record owner of legal title to a Unit, except that for the purpose 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 "Unit Owner" or "Owner" refers to the Primary Occupant and not the Unit Owner.

4.20 "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 86 Units and therefore there are a total of 86 Voting Interests.

5. DESCRIPTION OF IMPROVEMENTS: SURVEY AND PLANS:

5.1 Condominium Plat. Attached hereto as Exhibit "B" is the Condominium Plat ("Condominium Plat"), which graphically describes the improvements in which Units are located, and which shows all the Units including their identification numbers, locations and approximate dimensions and the Common Elements. As to matters not specifically covered in this Section 5.1, or in any case of conflict or ambiguity, the Condominium Plat shall control in determining the boundaries of a Unit. Each Unit includes that part of the building that lies within the following boundaries:

5.1.1 Upper and Lower Boundaries. The upper and lower boundaries of the Unit are the following boundaries, extended to their intersections with the perimetrical boundaries:

- (1) Upper Boundaries. The horizontal plane of the undecorated finished ceiling.
- (2) Lower Boundaries. The horizontal plane of the undecorated finished floor.

5.1.2 Perimeter Boundaries. The perimetrical boundaries of the Unit are the vertical planes of the undecorated finished interior of the walls bounding the Unit extended to intersections with each other and with the upper and lower boundaries as set forth and indicated in Exhibit "B". Included in the Units are all glass and other transparent material in the walls of the Unit, insect screens and screening in windows and doors, and the materials covering other openings in the exterior of the Units.

5.1.3 Exclusions from Units. Not included in the Units are:

- (1) All pipes, ducts, vents, wires, conduits and other facilities, equipment or fixtures running through any interior wall, or horizontal or vertical portion of a Unit for the furnishing of utility services, heating, cooling or ventilation to Units, Common Elements or Limited Common Elements.
- (2) All spaces and improvements lying beneath the undecorated or unfinished inner surface of all interior columns, bearing walls and bearing partitions.
- (3) All spaces and improvements lying beneath the undecorated or unfinished inner surface of the perimeter walls and floors, and above the lowest horizontal plane of the upper structural element of each Unit.

6. CONDOMINIUM PARCELS: APPURTENANCES AND USE:

6.1 Shares of Ownership; Appurtenances. The Condominium contains 86 Units. Each Unit Owner owns an undivided share in the Common Elements and Common Surplus as set forth in Exhibit "E" attached hereto. Each Unit Owner shall have certain rights and own a certain interest in the Condominium Property, including, without limitation, the following:

A. The undivided ownership share in the Land and other Common Elements and the Common Surplus as set forth in Exhibit E" attached hereto.

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

C. The exclusive right to use the Limited Common Elements reserved for the Unit, and the non-exclusive right to use the Common Elements.

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

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

Each Unit and its appurtenances constitute a "Condominium Parcel". Each Unit is identified by type and number as follows:

Type A Units: 401,501,601,701,801,901, 1001, 1101, 1201, 1401,1501,1601,1701 and 1801

Type B Units: 302, 402, 502, 602, 702, 802, 902, 1002, 1102, 1202, 1402, 1502, 1602, 1702 and 1802

Type C Units: 303, 403, 503, 603, 703, 803, 903, 1003, 1103, 1203, 1403, 1503, 1603, 1703 and 1803

Type D Units: 304, 404, 504, 604, 704, 804, 904, 1004, 1104, 1204, 1404, 1504, 1604, 1704, 1804, PH- 104, PH-204 and PH-304

Type E Units: 305, 405, 505, 605, 705, 805, 905, 1005, 1105, 1205, 1405, 1505, 1605, 1705, 1805, PH- 105, PH-205 and PH-305

Type F Units: PH-301

Type G Units: PH-302

Type H Units: PH-201

Type I Units: PH-202

Type J Units: PH-101

Type K Units: PH-102

6.2 Use and Possession. A Unit Owner is entitled to exclusive use and possession of his Unit. He is entitled to use the Common Elements in accordance with the purposes for which they are intended, but no use of the Unit or 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, occupancy, structural alteration, transfer, exterior appearance of the Units, and the appearance of the Common Elements and Limited Common Elements, shall be governed by the Condominium Documents.

7. COMMON ELEMENTS: EASEMENTS:

7.1 Definition. The term "Common Elements" includes, without limitation, the following:

7.1.1 Land. The land upon which the improvements are located, as described in Exhibit "A" attached hereto.

7.1.2 Building. All portions of the building and other improvements not included within the Units.

7.1.3 Easements. Easements through Units for conduits, pipes, ducts, vents, plumbing, wiring, and other facilities, equipment and/or fixtures for the furnishing of utility services, heating and cooling and/or ventilation to Units and the Common Elements, and an easement of support in every portion of a Unit which contributes to the support of other Units and/or Common Elements.

7.1.4 Supply of Utility Services/Fixtures. Installations for the furnishing of utility services to more than one Unit or to the Common Elements or to a Unit other than the Unit containing the installation, and the property and installations in connection therewith required for the furnishing of services to more than one Unit or the Common Elements required for access and utility services to more than one Unit or to the Common Elements; and fixtures owned or held for the common use, benefit and enjoyment of all owners of Units.

7.1.5 Other Common Elements. Any other parts of the Condominium Property designated as Common Elements in: this Declaration and any recorded exhibit hereto; the original Declaration of Condominium or any recorded exhibit thereto; or the Condominium Act, including the "Manager's Apartment", "Guest Suite 1" and "Guest Suite 2" ("Guest Suites").

The Guest Suites will be made available to Unit Owners for use by their Guests, subject to the Rules and Regulations, including restrictions on occupancy of the Guest Suites. The Board of Directors shall have the authority to require payment of security deposits and impose fees in an amount adequate to cover the cost of maintaining the Guest Suites. Should a Guest of a Unit Owner cause damage to any of the Guest Suites while the Guest uses same, the Unit Owner shall be liable for the cost of repairing the damage, which cost may be enforced as a special charge against the Unit Owner liable therefor.

The Unit Owner shall be liable for the cost of repairing damage to any other portion of the Condominium and Association Property that the Unit Owner's Guest damages, including the "Social Room". However, Guests are not permitted to use the Social Room or any other portions of the Common Elements or Association Property that are not readily available for use generally by Unit Owners.

7.2 Easements. Each of the following easements and easement rights are reserved through the Condominium Property and are covenants 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.

7.2.1 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, telephone, water, sewer, electronic security or other utility or service 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, or for the general health or welfare of the Unit Owners. Such easements or the relocation of existing easements may not prevent or unreasonably interfere with the use of the Units. The Association may also transfer title to utility-related equipment, facilities or material, and to take any other action to satisfy the requirements of any utility company or governmental agency to which any such utility-related equipment, facilities or material are to be so transferred. In connection with the foregoing, bills of sale may be granted for items of personal property owned or governed by the Association.

7.2.2 Encroachments. If any Unit encroaches upon any of the Common Elements or upon any other Unit for any reason other than the intentional act of the Unit Owner, or if any Common Element encroaches upon any Unit, an easement shall exist to the extent of that encroachment as long as the encroachment exists.

7.2.3 Ingress and Egress. A non-exclusive easement shall exist in favor of each Unit Owner and Occupant, their respective Guests, Family members, Tenants, licensees and invitees for pedestrian traffic over, through and across sidewalks, streets, paths, walks, and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through and across such portions of the Common Elements as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways. The Board of Directors shall have the authority to install security and traffic control devices, including, without limitation, barrier gates and speed bumps.

7.2.4 Easements Created and Reserved in Original Declaration. The Condominium is also subject to such other easements created and reserved in the original Declaration in addition to those easements previously recorded in the Public Records of Collier County, Florida, or easements created under the Condominium Act.

7.3 Restraint Upon Separation and Partition. The undivided share of ownership in the Common Elements and Common Surplus appurtenant to a Unit cannot be conveyed or separately described. As long as the Condominium exists, the Common Elements cannot be partitioned. No Unit Owner may assign, pledge or transfer his share in the funds and assets of the Association

except as an appurtenance to his Unit. However, the foregoing shall not prevent the Association from pledging, assigning or otherwise encumbering Assessments as collateral for a loan.

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. The Association has a right of reasonable access to and across all Limited Common Elements for the purpose of any inspection, maintenance and repairs which are the Association's responsibility. The following Common Elements have been designated as Limited Common Elements:

8.1.1 Balconies and Terraces. The balcony or balconies (and terrace or terraces) of each Unit which are designed as Limited Common Elements.

8.1.2 Roof Decks and Extended Terraces. The areas identified as "roof decks" on Exhibit "B" are Limited Common Elements which are appurtenant to their respective Units; namely, PH-302, PH-303 and PH-304. The Owner of the Unit to which these roof deck Limited Common Elements are appurtenant shall be responsible for the periodic cleaning and care of the roof deck. The Association shall be responsible for the repair, replacement and insurance of pavers and the roof membrane installed thereon by the developer of the Condominium or installed by the Unit Owner with the prior written approval of the Board of Directors, including any replacements thereof. Railings, structural components and the watertight integrity of the roof itself are the Association's responsibility. Floor coverings other than pavers are prohibited.

The extended terraces on the first living level (third floor) which are appurtenant to Units 302, 303 and 304 are Limited Common Elements. The Owners of the Units to which the extended terraces are appurtenant shall have the exclusive right to use said Limited Common Elements. The Unit Owner shall be responsible for the periodic cleaning and care of his extended terrace. The structural components and watertight integrity of the roof itself and railings are the Association's responsibility. The extended terraces may not be covered in any way without the prior written approval of the Board of Directors. Any furnishings placed thereon shall be the sole responsibility of the Unit Owner.

Adjacent to the Limited Common Element extended terraces on the first living level (third floor) is a deck which is the roof of the parking garage below. All references in this paragraph to the "deck area" shall mean the area not located within the Limited Common Element extended terraces. The Association shall be responsible for the periodic cleaning and care of the deck area. The deck area shall be used for the following purposes: visual beautification for Units that look down on the deck area; walkway access to the pool deck area for Units 302, 303 and 304; and access for authorized Association maintenance personnel, contractors and consultants in order to maintain and inspect any improvements located thereon. The third-floor deck area shall not be accessed by other persons. The Owners of Units 302, 303 and 304 shall not use the third-floor deck area for any purpose other than, walkway access to the pool deck area.

8.1.3 Parking Spaces. Certain parking spaces identified on Exhibit "B" are Limited Common Elements and are appurtenant to the Units to which they are assigned. No Unit shall have more than 3 Limited Common Element parking spaces, provided that each Unit shall

have at least one Limited Common Element parking space. The cost of maintenance of all parking spaces is a Common Expense.

8.1.4 Others. Any part of the Common Elements that is connected to or exclusively serves a single Unit and is specifically required in Section 11 below to be maintained, repaired or replaced by or at the expense of the Unit Owner, shall be deemed a Limited Common Element appurtenant to that Unit, whether or not specifically described above.

8.2 Exclusive Use; Transfer of Use Rights. 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; except that the use rights to a particular Limited Common Element parking space may be exchanged between Units by written agreement between the Unit Owners desiring such exchange. No parking assignment is valid unless it is first presented to the Association and approved by it in writing and an assignment is recorded in the Public Records of Collier County, Florida evidencing the assignment, so as to insure that the Association has a record of parking space, and a number thereof, assigned to each Unit.

9. **ASSOCIATION:** The operation of the Condominium is by Le Ciel Venetian Tower Association, 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 Amended and Restated Articles of Incorporation of the Association is attached hereto as Exhibit "C".

9.2 Bylaws. A copy of the Amended and Restated Bylaws is attached hereto as Exhibit "D".

9.3 Delegation of Management. The Association may contract for the management and maintenance of the Condominium Property or employ a licensed manager or management company to assist the Association in carrying out its powers and duties by performing such functions as, but not limited to, those described in the manager's job description, such as the submission of proposals, collection of Assessments, keeping of records, enforcement of Rules and Regulations, and maintenance, repair and replacement of the Common Elements with funds made available by the Association for such purposes. However, the Association and its Directors and Officers 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 the Condominium Documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board of Directors, 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; Limitation of Liability. The powers and duties of the Association include those set forth in the Condominium Act and the Condominium Documents.

The Association may contract, sue, or be sued with respect to the exercise or non-exercise of its powers and duties. For 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 if such use fees relate to expenses incurred by a Unit Owner having temporary, exclusive use of the 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, whether or not the lands or facilities are contiguous to the lands of the Condominium, for the use and enjoyment of the Unit Owners, provided that such action is approved by a majority of the Voting Interests. The acquisition of additional real property by the Association shall not be deemed a material change in the appurtenances to the Units.

Notwithstanding its duty to maintain and repair the Condominium or Association Property, the Association shall not be liable to Unit Owners for injury or damage (other than the cost of maintenance and repair) which is caused by: any latent condition of the property to be maintained and repaired by the Association; or by weather, Unit Owners or other persons.

9.7 Purchase of Units. The Association has the power to purchase Units in the Condominium and to acquire, own, lease, mortgage and convey them. Membership approval shall not be required for the Association to acquire title to a Unit at a foreclosure sale resulting from the Association's foreclosure of its lien for unpaid Assessments, or to take title by deed in lieu of foreclosure.

9.8 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 9.7 above, the power to acquire ownership interests in real property shall be exercised by the Board of Directors, but only after approval by a majority of the Voting Interests.

9.9 Disposition of Property. Any personal property owned by the Association may be leased, conveyed, mortgaged or otherwise encumbered by vote of the Board of Directors, (including the pledge or assignment of personal property, without need for authorization by the Unit Owners). Except as provided in Section 9.7 above, any real property owned by the Association may be leased, conveyed or mortgaged by the Board of Directors, but only after approval by a majority of the Voting Interests.

9.10 Roster. The Association shall maintain a current roster of all Unit Owners and their mailing addresses, Unit identifications, and, if known, telephone numbers, based upon information supplied by the Unit Owners. The Association shall also maintain the electronic mailing addresses and facsimile numbers designated by Unit Owners for receiving notice by electronic transmission, but only for those Unit Owners who have consented to receive Association notices by electronic transmission. The electronic mailing addresses and facsimile numbers of a Unit Owner shall be removed from the Association's official records when consent to receive notice by electronic transmission is revoked. However, the Association is not liable for the inadvertent disclosure of the electronic mail address or the facsimile number for receiving electronic transmission of notices. In the absence of the Unit Owner's written consent, the roster shall not include any address other than as provided to fulfill the Association's notice requirements, with the exception of the Unit's address.

9.11 Access and Tennis Commons Parcel; Commons "R"; Subdivision Restrictions and Walkway Easements.

Incorporated by reference in this Section 9.11 are the provisions of Section 7.9 of the original Declaration of Condominium, as amended in O.R. Book 2364, Page 2462, Public Records of Collier County, Florida, relating to the Access and Tennis Commons Parcel. The Association's appurtenant interest in the Access and Tennis Commons Parcel is subject to the Declaration of Restrictive Covenants, Conditions and Easements for Club Le Ciel recorded in O.R. Book 1683, Page 1771, Public Records of Collier County, Florida. The Association's share of expenses relating to the Access and Tennis Commons Parcel are Common Expenses. The Association is also subject to and benefitted by the Entry Reconfiguration Agreement recorded in O.R. Book 2364, Page 2419, Public Records of Collier County, Florida.

Also incorporated by reference are the provisions of Section 7.10 of the original Declaration of Condominium, as amended in O.R. Book 2364, Page 2462, Public Records of Collier County, Florida, relating to Commons "R". The Condominium is subject to the Declaration of Restrictive Covenants and Articles of Incorporation for Commons "R" Association as recorded in O.R. Book 330, Page 362, and O.R. Book 518, Page 892, Public Records of Collier County, Florida, respectively. The Association owns an undivided interest in Commons "R". Commons "R" Association assessments are Common Expenses.

The Condominium Property is also subject to walkway easements for the benefit of the record title owners, their successors and assigns, of each of the condominium units in Venetian Villas, a Condominium, according to the Declaration of Condominium recorded in O.R. Book 676, Page 954, Public Records of Collier County, Florida, located on Block 12, Park Shore Unit No. 2. The walkway easements are perpetual non-exclusive walkway easements for pedestrian use only over and across a portion of the Condominium Property for the use of the grantees as owners of said condominium units in Venetian Villas, a Condominium, and their guests. One walkway easement was recorded in O.R. Book 676, Page 953, Public Records of Collier County, Florida, and an additional walkway easement was O.R. Book 1729, Page 1327, Public Records of Collier County, Florida. The walkway easements were confirmed and ratified by the Agreement Confirming and Ratifying Easements of Record, as recorded in O.R. Book 3279, Page 557, Public Records of Collier County, Florida.

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 the Bylaws, and as follows:

10.1 Common Expenses. Common Expenses include the expenses of: operation, maintenance, repair, replacement and insurance of the Common Elements and Association Property; operating the Association; any costs of insurance acquired by the Association under the authority of Section 718.111(11) of the Condominium Act, including the costs and contingent expenses required to participate in a self-insurance fund authorized and approved pursuant to Florida Statutes Section 624.462; expenses referenced in Section 9.11 above, and any other

expenses properly incurred by the Association for the Condominium, including amounts budgeted for the purpose of funding reserve accounts. The cost of water and sewer service to the Common Elements and Units shall be a Common Expense. The cost of trash collection shall be a Common Expense. The cost of electrical service to the Common Elements shall be a Common Expense. However, electrical, telephone, gas, oxygen and other services for a Unit shall be paid for by the Owner of the Unit. If the Association contracts on a bulk basis for communications services as defined in Chapter 202, Florida Statutes, information services or Internet services, the cost of such bulk services is a Common Expense. A contract for communications services as defined in Chapter 202, Florida Statutes, information services or Internet services, must be for at least 2 years. The City of Naples has located their water and sewage facilities within the Utility Easement area set forth on Exhibit "A", in which part of the Common Elements (parking area, landscaping, paving and other such improvements) are located. The costs, if any, of removal and replacement, if required by the City, of any Common Elements removed by the City for the reasonable and necessary purpose of constructing, maintaining, replacing, or removing the City's utility facilities within the easement shall be a Common Expense.

10.2 Share of Common Expenses. The Owner of each Unit shall be liable for a share of the Common Expenses equal to his share of ownership of the Common Elements and the Common Surplus, as set forth in Section 6.1.

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 Unit Owner can withdraw or receive distribution of his share of the Common Surplus, except as otherwise provided herein or by law.

10.4 Who is Liable for Assessments. The Owner of each Unit, regardless of how title was acquired, is liable for all Assessments or installments thereon coming due while he is the Unit Owner. Multiple Unit Owners are jointly and severally liable. Except as provided in Section 20.3 below, whenever title to a Condominium Parcel is transferred for any reason, the new Unit Owner is jointly and severally liable with the previous Unit Owner for all Assessments which came due prior to the transfer and remain unpaid without prejudice to any right the new Unit Owner may have to recover from the previous Unit Owner any amounts paid by the new Unit Owner. When a Unit Owner conveys a Unit to a trust or a legal entity and remains in occupancy, the Association may condition its approval upon the transferors agreeing to remain liable to the Association for any Assessments, charges or other obligations owing to the Association as of the date of the approval, and for so long as the transferee trust or other entity may remain the title holder of the condominium Unit.

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 of 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 below as to certain mortgagees.

10.6 Application of Payments; Failure to Pay; Interest. Assessments and installments thereon paid on or before 10 days after the date due shall not bear interest, but the Association may charge interest at the highest rate allowed by law, calculated from the date due until paid on all

sums not timely 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 attorneys' fees, and finally to delinquent Assessments. The foregoing is applicable notwithstanding Section 673.3111, Florida Statutes, any purported accord and satisfaction, or any restrictive endorsement, designation, or instruction placed on or accompanying a payment. No payment by check is deemed received until the check has cleared. However, when the check clears, the payment shall be credited as of the date the Association received the check.

10.7 Acceleration. If any Special Assessment or installment of a regular Assessment as to a Unit becomes more than 30 days past due, 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 is recorded in the Public Records of Collier County, Florida. The Association's Claim of Lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, attorneys' 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 Unit Owner a notice of the exercise, which notice shall be sent by certified or registered mail to the Unit Owner's last known address and shall be deemed given upon mailing of 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 attorneys' 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. Except as otherwise provided by Section 718.116 of the Condominium Act, the lien is effective from and shall relate back to the recording of the original Declaration of Condominium. However, as to first mortgages of record, the lien is effective from and after recording of a Claim of Lien in the Public Records of Collier County, Florida. The Claim of Lien must state the description of the Condominium Parcel, the name of the record Unit Owner, the amount due, the name and address of the Association, and the due dates. The lien is in effect until barred by law. The Claim of Lien secures all unpaid Assessments that are due and that may accrue after the Claim of Lien is recorded and through the entry of a final judgment, as well as interest, administrative late fees, and all reasonable costs and attorneys' fees incurred by the Association incident to the collection process. Upon full payment, the person making the payment is entitled to a Satisfaction of 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 least extent required by the Condominium Act, as amended from time to time. 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 Foreclosure of Lien. Subject to compliance with the prerequisites to commencing a foreclosure action as set forth in the Condominium Act, 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. The Association shall provide a certificate (sometimes referred to as an "estoppel letter") signed by an Officer or agent of the Association upon request by a Unit Owner or his or her designee, stating all Assessments and other moneys owed to the Association by the Unit Owner with respect to the Condominium Parcel within the time periods required by Section 718.116(8) of the Condominium Act, as amended from time to time. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby. Notwithstanding any limitation on transfer fees contained in Sec. 718.112(2)(i) of the Condominium Act, the Association or its authorized agent may charge a reasonable fee for the preparation of the certificate. The Association or its authorized agent is not required to provide a prospective purchaser or lienholder with information about the Condominium or the Association other than information or documents required by the Condominium Act to be made available or disclosed. The Association or its authorized agent may charge a reasonable fee to a prospective purchaser, lienholder, or the Unit Owner for providing good faith responses to requests for information by or on behalf of a prospective purchaser or lienholder, other than information required by law to be made available or disclosed, if the fee does not exceed the maximum amount permitted by the Condominium Act, as amended from time to time, plus the reasonable cost of photocopying and any attorneys' fees incurred by the Association in connection with the response. The Association and its authorized agent are not liable for providing such information in good faith pursuant to a written request if the person providing the information includes a written statement in substantially the following form: "The responses herein are made in good faith and to the best of my ability as to their accuracy".

10.12 Enforcement Against Tenants. Subject to the procedures and limitations set forth in Section 718.116(11) of the Condominium Act, if a Unit is occupied by a Tenant and the Unit Owner is delinquent in paying any monetary obligation due to the Association, the Association may make a written demand that the Tenant pay to the Association the subsequent rental payments and continue to make such payments until all monetary obligations of the Unit Owner related to the Unit have been paid in full to the Association. The Tenant must pay the monetary obligations to the Association until the Association releases the Tenant or the Tenant discontinues tenancy in the Unit. The Association may issue notice and sue for eviction as if the Association were a landlord if the Tenant fails to pay a required payment to the Association after written demand has been made to the Tenant. However, the Association is not otherwise considered a landlord.

11. MAINTENANCE: LIMITATIONS UPON ALTERATIONS AND IMPROVEMENTS: Responsibility for the maintenance, repair and replacement of the Condominium Property, and restrictions on its alteration and improvement shall be as follows (notwithstanding anything to the contrary contained in this Declaration, responsibility for items following an insurable event is set forth in Section 15):

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 in this Declaration to be maintained by the Unit Owner). The cost of the Association fulfilling its maintenance, repair and replacement responsibilities is a Common Expense. The Association's responsibilities include, without limitation:

- A. Electrical wiring up to the circuit breaker panel in each Unit.

B. Rough plumbing. All pipes, ducts, vents, wires, conduits and other facilities, equipment or fixtures located within one Unit but serving another Unit, or located outside the Unit, for the furnishing of utilities to more than one Unit or the Common Elements.

C. Fire alarm systems and sprinkler systems.

D. All exterior building walls.

E. All interior corridor and atrium walls.

F. Railings on balconies, terraces, roof decks and extended terraces.

G. All portions of the building contributing to the support of the building, whether or not located within a Unit, which portions shall include load-bearing walls.

H. The exterior building glass curtain wall and windows of the building (other than operable windows opening into Units).

The Association's responsibility does not include interior wall switches or receptacles, plumbing fixtures, or other electrical, plumbing, or mechanical installations located within a Unit and servicing only that Unit. 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. However, so long as the Association acts with due care and absent negligence of the Association, it shall not be responsible for incidental damage: to any alteration or addition made by a Unit Owner or his predecessor in title; to any item or improvement in the Unit or Limited Common Element that was not part of the standard items or improvements provided to purchasers by the developer of the Condominium, including but not limited to paint, wallpaper, paneling, flooring, balcony screen enclosures, carpet or other items located within a Unit or Limited Common Element which, of necessity, must be cut or removed to gain access to work areas located behind or beneath them; further, the Association shall not be responsible for any incidental damage to a Unit if the need for the work was caused by the negligence of that particular Unit Owner, his or her Family, Tenants, invitees or Guests. No such limitation shall absolve contractors or third parties from damages arising from their acts or omissions.

11.2 Unit Owner Maintenance. Except as otherwise set forth in this Declaration, each Unit Owner is responsible, at his own expense, for all maintenance, repairs, and replacements of his own Unit and certain Limited Common Elements. The Unit Owner's maintenance, repair and replacement responsibilities include, without limitation, the following items:

A. The interior of all windows and glass curtain walls servicing a Unit.

B. All sliding glass doors servicing a Unit; and all operable windows opening into the Unit, whether or not part of the exterior glass curtain wall. In both cases, the Unit Owner's responsibility includes hardware, frameworks, and weather-stripping.

C. The entrance doors to the Unit, including both the interior and exterior surfaces and all hardware, frameworks, and glass.

D. The electrical, mechanical, and plumbing fixtures, switches, valves, drains and outlets (including connections) located partially or entirely within the Unit and serving only the Unit.

- E. The circuit breaker panel and all electrical wiring going into the Unit from the circuit breaker panel.
- F. Appliances, water heaters, smoke alarms and vent fans.
- G. All air conditioning, and heating equipment, thermostats, ducts and installations serving the Unit exclusively.
- H. Carpeting, tile and other floor coverings.
- I. Shower pans.
- J. The main water supply shut-off valve for the Unit.
- K. Other facilities or fixtures which are located or contained entirely within the Unit and serve only the Unit.
- L. All hurricane shutters serving the Unit.
- M. Screens.

Notwithstanding the foregoing, the Association may, solely at its option, maintain, repair and replace: all doors affording access to Units, and all related hardware, frameworks and glass; and all windows not otherwise within the Association's responsibility, as a Common Expense as part of a general plan of maintenance, repair and replacement for all Units.

11.3 Other Unit Owners Responsibilities. The Unit Owner shall have the following responsibilities:

A. Balconies and Terraces. With respect to the Limited Common Element balcony and terrace, the Unit Owner shall be responsible for the day-to-day cleaning and care of the interior surfaces of the walls, floor and ceiling bounding said area and floor coverings such as tile. The Unit Owner shall also be responsible for any fixed glass and sliding glass doors in portions of the entrance to said area, if any and in any other locations on the balcony and terrace; and the wiring, electrical outlet(s) and fixture(s) thereon, if any, and the replacement of light bulbs. The Unit Owner shall be responsible for balcony screens. The Association is responsible for the maintenance, repair and replacement of all exterior walls of the building, the concrete slabs and railings. No floor coverings may be installed on concrete surfaces without prior written approval of the Board of Directors and subject to such specifications and other conditions as determined by the Board of Directors.

B. Interior Decorating. Each Unit Owner is responsible for all decorating within his own Unit, including painting, wallpapering, paneling, floor covering, draperies, window shades, curtains, lamps and other light fixtures, and other furnishings and interior decorating.

C. Flooring. The installation of hard surface floor materials, including ceramic tile hardwood floors, in Units is restricted to floors installed over adequate sound insulating material meeting specifications approved by the Board. The Unit Owner shall secure written permission of the Board as described in Section 11.5 hereof. The Board reserves the right to inspect the installation to assure compliance. If the Unit Owner fails to give the notice and secure written permission as described in Section 11.5, or does not allow the Board to inspect the installation as it is being made, the Board may, in addition to exercising all the other remedies provided in this Declaration, require the Unit Owner to cover all such hard surface flooring with carpeting, or require the removal of such hard surface flooring at the expense of the offending Unit Owner.

D. Window Coverings. The covering and appearance of windows and doors whether by draperies, shades, reflective film or other items, whether installed within or outside of the Unit, visible from the exterior of the Unit, shall be subject to the Rules and Regulations.

E. Modifications and Alterations. If a Unit Owner makes any alterations or additions to his Unit or Limited Common Elements, the Unit Owner and his successors in title shall be financially responsible for the maintenance, repair and replacement of such alterations or additions. The Unit Owner shall also be responsible for the cost of: repairing any damage to the Limited Common Elements and/or Common Elements resulting from such alterations or additions; and any insurance that the Unit Owner obtains, in his discretion.

F. Use of Licensed and Insured Contractors; Construction Lien Law. Whenever a Unit Owner contracts for maintenance, repair, replacement, alteration, addition or improvement of any portion of the Unit, Limited Common Element or Common Elements, whether with or without Association approval, such Unit Owner shall be deemed to have warranted to the Association and its Members that his contractor(s) are properly licensed and fully insured (including workers' compensation insurance) and that the Unit Owner will be financially responsible for any resulting damage to persons or property. The Unit Owner also agrees to comply with the requirements of Chapter 713, Florida Statutes and to indemnify the Association and its Members from any construction liens which may attach to Limited Common Elements and/or Common Elements and which are attributable to work performed by or for the benefit of the Unit Owner. The Association may, through its Board of Directors or its designee, prohibit a specific vendor, contractor or licensee from entering the Condominium Property to perform such services in the Condominium upon a reasonable determination that the vendor, contractor or licensee has shown disregard for the Association's Rules and Regulations or caused damage to the Condominium Property.

11.4 Appliance Maintenance Contracts. If there shall become available to the Association a program of contract maintenance for water heaters within or serving individual Units and/or air-conditioning compressors and/or air handlers serving individual Units, the Association may enter into such contractual undertakings upon approval from a majority of the Voting Interests present (in person or by proxy) and voting at any annual or special Members' meeting at which a quorum has been established. The expenses of such contractual undertakings to the Association shall be Common Expenses. All maintenance, repairs and replacements not covered by the contracts shall be the responsibility of the Unit Owner.

11.5 Alterations and Additions. No Unit Owner shall make or permit the making of any structural, material alterations or substantial additions to his Unit or alterations or additions to his Limited Common Elements (including the placement of objects), or in any manner change the exterior appearance of any portion of the Condominium, without first obtaining the written approval of the Board of Directors, which approval shall be denied if the Board of Directors determines that the proposed alterations or additions would adversely affect, or in any manner be detrimental to, the Condominium in part or in whole. The installation of hurricane shutters shall be subject to regulation by the Board of Directors in accordance with the hurricane shutter specifications set forth in the Rules and Regulations. The Association shall have the ability to impose reasonable Rules and Regulations on construction within Units, including a requirement that the Unit Owner or the contractor(s) supply a compliance bond. The Board may not refuse the request of a Unit Owner for a reasonable accommodation for the attachment on the mantel or frame of the door of the Unit of a religious object not to exceed 3" wide, 6" high, and 1.5" deep.

11.6 Combining Units. Nothing in this Declaration shall be construed as prohibiting the Board of Directors from authorizing the removal of the party wall between 2 Units in order that the Units might be used together as one integral living space. In such event, all Assessments, voting rights and the share of Common Elements shall be calculated as such Units were originally designated on the exhibits attached to this Declaration, notwithstanding the fact that several Units are used as one, with the intent and purpose that the Owner of such "combined" Units shall be treated as the Owner of as many Units as have been combined.

11.7 Alterations and Additions to Common Elements and Association Property. The protection, maintenance, repair, insurance and replacement of the Common Elements and Association Property is the Association's responsibility, 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 Association Property without prior approval by the Owners of not less than 2/3 of the Voting Interests present in person or by proxy at a meeting at which at least a majority of all Unit Owners are present in person or by proxy. Notwithstanding the preceding sentence, the Association may make material alterations and substantial additions to the Common Elements or the Association Property costing not more than three percent (3%) of the Association's operating budget in the aggregate in any calendar year, with approval from the Board of Directors and without prior approval of the Owners. Notwithstanding the foregoing, prior Owner approval is not required, regardless of whether the work constitutes a material alteration or substantial addition to the Common Elements or Association Property, if the work is: reasonably necessary to protect, maintain, repair, replace or insure the Common Elements or Association Property, or any part thereof; reasonably necessary to comply with any local, state or federal law or regulation; or intended for the security and safety of the Unit Owners.

11.8 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 in this Declaration, the Association shall have the right to institute legal proceedings to enforce compliance, or may take any and all other lawful actions to remedy such violation, including but not limited to, entering the Unit, to the extent such entry is permitted by the Condominium Act.

11.9 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 wrongful act or negligence, or by that of any member of his Family or his Guests, employees, agents, or Tenants. Each Unit Owner has a duty to maintain his Unit, any Limited Common Element appurtenant to the Unit, and personal property therein, in such a manner as to prevent foreseeable and reasonably preventable damage to other Units, the Common Elements or the property of other Unit Owners and residents. If any condition, defect or malfunction, resulting from the Unit 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 for the damage.

11.10 Association's Access to Units. Pursuant to Section 718.111(5)(a) of the Condominium Act, the Association has an irrevocable right of access to each Unit during reasonable hours, when necessary for the maintenance, repair, or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to this Declaration or as necessary to prevent damage to the Common Elements or to a Unit. The Association may enter an "abandoned" (as such term is defined in Section 718.111(5)(b) of the Condominium Act) Unit to inspect the Unit and adjoining Common Elements; make repairs to the

Unit or to the Common Elements serving the Unit, as needed; repair the Unit if mold or deterioration is present; turn on utilities for the Unit; or otherwise maintain, preserve, or protect the Unit and adjoining Common Elements. The Association's right of access includes, without limitation, entry for purposes of pest control and preventive maintenance of safety equipment such as fire alarms and sprinkler systems as well as the right, but not the duty, to enter under circumstances where the health or safety of residents may be endangered. The exercise of the Association's rights of access to the Unit shall be accomplished with due respect for the rights of privacy and freedom from unreasonable annoyance. Any expense incurred by the Association pursuant to Section 718.111(5)(b) of the Condominium Act is chargeable to the Unit Owner and enforceable as an Assessment pursuant to Section 718.116 of the Condominium Act, and the Association may use its lien authority provided by Section 718.116 of the Condominium Act to enforce collection of the expense. The Association may petition a court of competent jurisdiction to appoint a receiver to lease out an abandoned Unit for the benefit of the Association to offset against the rental income the Association's costs and expenses of maintaining, preserving, and protecting the Unit and the adjoining Common Elements, including the costs of the receivership and all unpaid Assessments, interest, late fees, costs, and reasonable attorneys' fees.

11.11 Pest Control. The Association may supply pest control within Units with the cost thereof being part of the Common Expenses. Because the cost of pest control service provided by the Association is part of the Common Expenses, the election of a Unit Owner not to use such service shall not reduce the Assessment imposed upon the Unit Owner and his Unit.

11.12 Board Approval of Alterations or Construction. In all cases in which the Board must approve construction in or alterations to a Unit or the Common Elements requested by a Unit Owner, the Unit Owner shall provide the Board with not less than 30 days written notice of the Unit Owner's intention, together with plans and specifications indicating the proposed construction. The Board shall indicate its approval or disapproval of the proposed construction in writing within 30 days of receipt of the notice and all required plans. The Board reserves the right to consult with a licensed Florida architect or professional engineer and to pass such costs on to the Unit Owner and to require that any plans and specifications be prepared by a licensed Florida architect or engineer. The Board may extend the time in which it must render its decision by an additional 30 days in the event it determines a licensed Florida architect's or professional engineer's review is necessary.

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

12.1 Units. Units may be used for Single Family residential living and for no other purpose. However, "no impact" or "low impact" home based business in and from a Unit is allowed. Such uses are expressly declared customarily incident to residential use. Examples of businesses which are prohibited and are considered "impact" businesses are businesses or commercial activity or ventures that create customer traffic to and from the Unit, create noise audible from outside the Unit, or generate fumes or odors noticeable outside the Unit, including but not limited to, a home day care, beauty salon/barber, and animal breeding. The use of a Unit as a public lodging establishment shall be deemed a business or commercial use.

12.2 Occupancy in Absence of Unit Owner. If the Unit Owner and his Family who permanently reside with him are absent, and are not occupying it, and the Unit has not been leased,

the Unit Owner may permit his Unit to be occupied by his Guests only in accordance with the following:

A. Any one parent, sibling, child or grandchild of a Unit Owner (whether by blood, marriage, adoption or legal custody), and that person's spouse and his parents, siblings, children and grandchildren (whether by blood, marriage, adoption or legal custody), are permitted to occupy the Unit in the absence of the Unit Owner for a period not to exceed 30 days. The number of occasions for this type of Guest occupancy shall be limited to 4 times in any 12 month period.

B. House Guests not included within 12.2(A) are permitted for only one Family occupancy in the Unit Owner's absence and then only with the proviso that the Family consist of no more than 6 persons. Such Guests may stay only 2 weeks and the number of occasions for this type of Guest occupancy in any Unit shall be limited to 3 in any calendar year.

C. All overnight Guests who are not accompanied by Unit Owners must be registered with the Association office and authorized by written instructions from the Unit Owner to avoid having their presence challenged by other Unit Owners, security, or management.

12.3 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.

12.4 Occupancy When Unit Owner is Present. There is no restriction on the number of Guests, whether related or unrelated to the Unit Owner, who may occupy the Unit in the presence of the Unit Owner with the exception of any municipal ordinance.

12.5 Intentionally Left Blank for Future Use.

12.6 Pets. Cats and dogs (not to exceed a total of 2 per Unit and not to exceed 25 pounds per pet) are permitted, provided that cats and dogs are kept on a leash or carried when outside of a Unit. In the event that any pet constitutes a nuisance, the Board of Directors may order the owner of such pet to permanently remove the same from the Unit and shall, if necessary, have the right to seek injunctive relief if the owner fails to comply with such order. The Board of Directors' determination as to what constitutes a nuisance or annoyance shall be dispositive and shall control without regard to any legal definition of such terms. Lessees and Guests are not permitted to keep pets on the Condominium Property.

12.7 Signs. No person may post or display "For Sale" or "For Rent" or other similar signs anywhere on the Condominium Property. "Open House" signs must be approved by the Association as provided in the Rules and Regulations.

12.8 Nuisances. No Unit Owner shall use his Unit, or permit to be used, in any manner which constitutes or causes an unreasonable amount of annoyance or nuisance to others, 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 the Unit Owner, his Family, Guests, Tenants, licensees, and invitees shall at all times conduct themselves in a peaceful and orderly manner. The Board of Directors' determination as to what constitutes a nuisance or annoyance shall be dispositive and shall control without regard to any legal definition of such terms.

12.9 Antennas, Satellite Dishes and Flags. Unit Owners may not install antennas or satellite dishes, except that (a) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter (b) antennas or satellite dishes designed to receive video programming services via multi-point distribution services which are one meter or less in diameter; or (c) antennas or satellite dishes designed to receive television broadcast signals, ("Reception Device") shall be permitted, provided that the Reception Device is located so as not to be visible from outside the Unit, or is located on the balcony or terrace of the Unit. The Board may require that a Reception Device be painted in order to blend into the appearance of the rest of the building. The installation and display of flag poles and flags is prohibited, but no Unit Owner shall be prevented from displaying a portable, removable United States flag in a respectful manner or official flag of the State of Florida in a respectful manner, or on Armed Forces Day, Memorial Day, Flag Day, Independence Day and Veterans Day, be prevented from displaying in a respectful manner a portable, removable official US Army, Navy, Air Force, Marine Corps or Coast Guard flag not larger than 4.5' x 6'.

12.10 Use of Common Elements.

Common hallways, stairways and other Common Elements shall not be obstructed, littered, defaced, or misused in any manner. Balconies, terraces, porches, walkways, and stairways shall be used only for the purposes intended, and they shall not be used for hanging or drying clothing, for outdoor cooking, for cleaning of rugs or other household items, or for storage of bicycles or other personal property.

13. LEASING OF UNITS:

In order to foster a stable residential community and prevent a motel- like atmosphere, 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 only his entire Unit, and then only in accordance with this Section and the Rules and Regulations, after receiving the approval of the Association. The Lessee must be a person or persons and not a corporation, partnership, trust or other entity.

13.1 Procedures.

13.1.1 Notice by the Unit Owner. A Unit Owner intending to lease his Unit shall give to the Board of Directors or its designee written notice of such intention at least 30 days prior to the first day of occupancy under the lease together with the name and address of the proposed Lessee and all other occupants, including Guests, a fully executed copy of the proposed lease, and such other information as the Board may reasonably require. The Board may require a personal interview with the Lessee and his spouse, if any, as a pre-condition to approval. The applicant must sign for having received copies of the Condominium Documents.

13.1.2 Board Action. After the required notice and all information or interviews requested have been provided, the Board shall have 20 days in which to approve or disapprove the proposed lease. If the Board or its designee neither approves nor disapproves within that time, its failure to act shall be deemed the equivalent of approval, and on demand the Board shall issue a written letter of approval to the Lessee.

13.1.3 Disapproval. Appropriate grounds for disapproval shall include, but not be limited to, the following:

(1) the Unit Owner is delinquent in the payment of Assessments at the time the application is considered;

(2) the Unit Owner and/or agent has or have a documented history of leasing the Unit without obtaining approval, or leasing to troublesome Lessees and/or refusing to control or accept responsibility for the occupancy of the Unit;

(3) the application on its face indicates that the applicant(s) intend(s) to conduct himself/themselves in a manner inconsistent with the Condominium Documents and other covenants and restrictions applicable to the Condominium; the applicant(s) has/have been convicted of a felony: involving violence to persons or property; involving sale of a controlled substance; or that results in the applicant(s) being legally classified as a "sexual offender(s)";

(4) the applicant(s) and/or his or their Family members has/have a history of conduct which evidence disregard for the rights and property of others;

(5) the applicant(s) has/have evidenced an attitude of disregard for the Condominium Documents by his/their conduct in the Condominium as a Lessee, Unit Owner, Guest, Family member, licensee or invitee of a Unit Owner;

(6) the applicant(s) has/have failed to provide the notice, information, fees or security deposit required to process the application in a timely manner, or provided false information to the Association as part of the application procedure; or

(7) the lease was concluded by the parties without having sought and obtained the prior approval required herein.

13.1.4 Failure to Give Notice or Obtain Approval. If proper notice is not given, the Board or its designee at its election may approve or disapprove the lease. Any lease entered into without approval may, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the Lessee without securing consent to such eviction from the Unit Owner.

13.1.5 Applications: Assessments. Applications for authority to lease shall be made to the Board of Directors or its designee on such forms and include such terms as the Board may provide from time to time. The legal responsibility for paying Assessments may not be delegated to the Lessee.

13.1.6 Delegation of Approval Power. The Board of Directors may by resolution delegate its approval power to an ad hoc committee or individual designee.

13.2 Term of Lease and Frequency of Leasing. No Unit may be leased more often than one time per calendar year, with the minimum lease term being 90 days. For purposes of the foregoing restriction, the first day of occupancy under the lease shall conclusively determine in which calendar year the lease occurs. No lease may be for a period of more than one year and no option for the Lessee to extend or renew the lease for any additional period shall be permitted unless approved by the Board. However, the Board may, in its discretion, approve the same lease from year to year. No subleasing or assignment of lease rights by the Lessee is permitted. The Board of Directors is authorized to adopt additional rules and regulations to prevent circumvention of the restrictions set forth in this Section 13.2 which may include, without limitation, restrictions on the advertisement of Units that are inconsistent with the lease frequency and duration provisions of this Section 13.2. It is further intended that any use of the term "leasing" and all its derivations is synonymous with licensing and all its derivations, including, without limitation,

arrangements facilitated by Airbnb, FlipKey, VRBO, Tripping.cm, HomeAway and/or similar services.

13.3 Occupancy During Lease Term. No one but the Lessee, his parents, siblings, children and grandchildren (whether by blood, marriage, adoption or legal custody) and their spouses and Guests may occupy the Unit. The total number of overnight occupants of a leased Unit is limited to 6 persons. A Lessee in residence may not have overnight Guests for more than 10 days in any calendar month, and such Guests must be registered with the manager.

13.4 Occupancy in Absence of Lessee. If a Lessee absents himself from the Unit for any period of time during the lease term, his Family authorized to occupy the Unit by Section 13.3 above who are already in residence may continue to occupy the Unit and may have house Guests subject to all the restrictions in Sections 12 and 13.3 above and in the Rules and Regulations. If the Lessee and all of the Family members mentioned in the preceding sentence are absent, no other person may occupy the Unit, except the Unit Owner.

13.5 Use of Common Elements and Association Property. To prevent overtaking the facilities, a Unit Owner whose Unit is leased may not use the recreation or parking facilities during the lease term, except that the Unit Owner may temporarily use the parking facilities in order to access the Unit as a landlord pursuant to Part II, Chapter 83, Florida Statutes (Landlord Tenant Act). This limitation is notwithstanding any purported waiver by the Tenant of his use rights as permitted by Section 718.106 of the Condominium Act, due to the burden on Association administration.

13.6 Regulation by Association. All of the provisions of the Condominium Documents shall be applicable and enforceable against any person occupying a Unit as a Lessee or the Lessee's Family members, Guests, licensees and invitees to the same extent as against the Unit Owner. A covenant on the part of each Lessee to abide by the Condominium Documents, designating the Association as the Unit Owner's agent with the authority to terminate any lease agreement and evict the Lessees and their Guests and Family members 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.

13.7 Fees and Deposits for the Lease of Units. Whenever herein the Board's approval is required to allow the lease of a Unit, the Association may charge the Unit 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. The Association may also require payment of any security deposits that are authorized by the Condominium Act as amended from time to time, which security deposit shall cover damage to the Common Elements or Association Property. Handling of the security deposit and claims against the security deposit shall be in accordance with Part II of Chapter 83, Florida Statutes.

13.8 Unapproved Leases. Any lease of a Unit not approved pursuant to this Section 13 shall be void and unenforceable unless subsequently approved by the Board and shall constitute a valid basis for an eviction action.

14. TRANSFER OF OWNERSHIP OF UNITS: In order to maintain a community of congenial, financially responsible residents with the objectives of protecting the value of the Units, inhibiting transiency, and facilitating the development of a stable, quiet community and peace of

mind for all residents, the transfer of ownership of a Unit shall be subject to the following provisions:

14.1 Forms of Ownership:

A. A Unit may be owned by one person who has qualified and been approved as provided in this Section 14.

B. Co-Ownership. Co-ownership of Units is permitted. If the co-Unit Owners are to be other than spouses or cohabitants who live together as a single housekeeping unit (and therefore qualify as a "Family" pursuant to Section 4.9 of this Declaration), the Board shall condition its approval upon the designation by the proposed new Unit Owners of one person as the Primary Occupant. The use of the Unit by other persons shall be as if the Primary Occupant were the only actual Unit Owner. Any subsequent change in the Primary Occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Section 14. No more than one such change will be approved in any 12-month period.

C. Ownership by Corporations, Partnerships, Trusts or Other Entities. A Unit may be owned in trust, or by a corporation, partnership or other entity that is not a person, if approved in the manner provided in this Section 14. The intent of this provision is to allow flexibility in estate, financial or tax planning, and not to create circumstances in which the Unit may be used as short-term transient accommodations for several individuals or families. The approval of a trust, corporation, partnership or other entity as a Unit Owner shall be conditioned upon: designation by the Unit Owner of one person to be the Primary Occupant; and approval of the Primary Occupant and other intended occupants. The Primary Occupant and other intended occupants shall be considered applicant(s) for purposes of this Section 14. The use of the Unit by other persons shall be as if the Primary Occupant were the only actual Unit Owner. Any subsequent change in the Primary Occupants shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Section 14. No more than one such change will be approved in any 12-month period.

D. Designation of Primary Occupant. If any Unit Owner fails to designate a Primary Occupant when required to do so, the Board of Directors may make the initial designation for the Unit Owner, and shall notify the Unit 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 Section 14.2 below. In that event, the life tenant shall be the only Member, and occupancy of the Unit shall be as if the life tenant were the only Unit 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 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-Unit Owners for purposes of determining voting and occupancy rights under Section 14.1(B), above.

14.2 Transfers.

14.2.1 Sale or Gift. No Unit Owner may transfer 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 which shall not be unreasonably denied.

14.2.2 Devise or Inheritance. If any Unit Owner acquires his title by devise or inheritance or a person has the right to occupy or use the Unit pursuant to the deceased Unit Owner's will, trust or other estate planning instrument (such person is referred to herein as the "Permitted Occupant"), the Unit Owner's or Permitted Occupant's right to occupy or use the Unit shall be subject to the approval of the Board of Directors under Section 14.3 below, using the same criteria as for transfers. However, the approval shall not be denied to any devisee, heir or Permitted Occupant who was the prior Unit Owner's lawful spouse or cohabitant who occupied the Unit with the Unit Owner at the time of death, or was the Unit Owner's parent, sibling or child (whether by blood, marriage, adoption or legal custody).

14.2.3 Other Transfers. If any person acquires title or occupancy rights 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.

14.2.4 Delegation of Approval Power. The Board of Directors may by resolution delegate its approval (but not its disapproval) power to an Officer, who shall execute a Certificate of Approval in recordable form and deliver it to the purchaser or closing agent. The Board of Directors may also authorize the Association's manager to execute and deliver a Certificate of Approval in recordable form.

14.3 Procedures.

14.3.1 Notice to Association.

14.3.1.1 Sale or Gift. A Unit 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 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, an application for approval to purchase, processing fee and such other information as the Board may reasonably require. The Board may require a personal interview with any purchaser or donee and his spouse, if any, as a pre-condition to approval.

14.3.1.2 Devise, Inheritance or Other Transfers. The transferee or Permitted Occupant must notify the Board of Directors of his ownership or occupancy rights and submit a certified copy of the instrument evidencing his ownership and such other information as the Board may reasonably require. The transferee or Permitted Occupant 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 14 or Section 13. Notwithstanding the foregoing, a transferee or Permitted Occupant referred to in the last sentence in Section 14.2.2 above may continue to occupy and use the Unit, provided such person provides the Board of Directors with the instrument within 10 days of the prior Unit Owner's death.

14.3.1.3 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 or other event giving rise to title to the Unit or occupancy rights. If any Unit 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 Unit Owner and the purchaser intend to violate the covenants of this Declaration, and shall constitute good cause for Association disapproval.

14.3.2 Board Action. Within 20 days after receipt of the required notice and all information or interview requested, the Board shall approve or disapprove the transfer or occupancy rights. If a transfer is approved, the approval shall be stated in a Certificate of Approval executed by an Officer in recordable form and delivered to the transferee or Permitted Occupant. If the Board neither approves nor disapproves within the time limit 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 or Permitted Occupant.

14.3.3 Disapproval With Good Cause. Approval of the Association may be withheld for good cause only if a majority of the entire Board so votes. The following, without limitation, may be deemed to constitute good cause for disapproval (to the extent reasonably relevant to the application):

(1) the applicant(s) has/have been convicted of a felony: involving violence to persons or property; involving sale of a controlled substance; or that results in the applicant(s) being legally classified as a "sexual offender(s)";

(2) the application on its face gives the Board reasonable cause to believe that the applicant(s) intend(s) to conduct himself/themselves in a manner inconsistent with the Condominium Documents and other covenants and restrictions applicable to the Condominium;

(3) the applicant(s) and/or his or their Family members has/have a history of conduct which evidence disregard for the rights and property of others;

(4) the applicant(s) has/have evidenced an attitude of disregard for the Condominium Documents by his/their conduct in the Condominium as a Lessee, Unit Owner, Guest, Family member, licensee or invitee of a Unit Owner;

(5) the applicant(s) has/have failed to provide the information or fees required to process the application in a timely manner, or provided false information to the Association as part of the application procedure;

(6) the transaction, if a sale or gift, was concluded by the parties without having sought and obtained the prior approval required herein;

(7) the applicant(s) has/have a record of financial irresponsibility, including without limitation prior bankruptcies, foreclosures or bad debts.

14.3.4 Disapproval Without Good Cause. The Association's approval shall not be denied unless a majority of the entire Board so votes. If the Board disapproves without good cause, then within 30 days after the Board meeting at which the disapproval took place, the Board shall deliver in writing to the Unit Owner the name of an approved purchaser (which may be the Association) 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, 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 2 state-certified property appraisers, one selected by the Unit Owner and the other by the Association. The cost of the appraisals shall be

shared equally by the purchaser and Unit Owner. All other closing costs shall be paid or prorated in accordance with the Naples Area Board of Realtors standard form of residential purchase contract. Each party shall pay his/its own attorneys' fees. The closing shall take place no later than 60 days after the date of Board disapproval or 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 all legal remedies.

If the Board fails to deliver the name of the approved purchaser within 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 in recordable form shall be issued to the original proposed purchaser.

14.4 Exception. The provisions of Sections 14.2 and 14.3 are not applicable to the acquisition of title to a Unit by an Institutional Mortgagee who acquires title through the Institutional Mortgage, whether by foreclosure or deed in lieu of foreclosure, nor shall the Association's approval be required for the subsequent resale or lease of the Unit by such Institutional Mortgagee.

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 Unit Owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law.

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 Insurance Obligations as Between Association and Unit Owners. Every property insurance policy issued to the Association, for the purpose of protecting the Condominium, must provide primary coverage for:

A. All portions of the Condominium Property as originally installed or replacement of like kind and quality, in accordance with the original plans and specifications.

B. All alterations or additions made to the Condominium Property or Association Property pursuant to Section 718.113(2) of the Condominium Act.

C. The coverage must exclude all personal property within the Unit or Limited Common Elements, and floor, wall, and ceiling coverings, electrical fixtures, appliances, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of the Unit and serve only such Unit. Such property and any insurance thereupon is the responsibility of the Unit Owner.

D. A Unit Owner's policy must conform to the requirements of s. 627.714, which provides:

(1) coverage under a Unit Owner's residential property policy must include at least \$2,000.00 in property loss assessment coverage for all Assessments made as a result of the same direct loss to the property, regardless of the number of Assessments, owned by all Members of the Association collectively, if such loss is of the type of loss covered by the Unit Owner's residential property insurance policy, to which a deductible of no more than \$250.00 per direct property loss applies. If a deductible was or will be applied to other property loss sustained by the Unit Owner resulting from the same direct loss to the property, no deductible applies to the loss assessment coverage.

(2) The maximum amount of any Unit Owner's loss assessment coverage that can be assessed for any loss shall be an amount equal to that Unit Owner's loss assessment coverage limit in effect one day before the date of the occurrence. Any changes to the limits of a Unit Owner's coverage for loss assessments made on or after the day before the date of the occurrence are not applicable to such loss.

(3) Regardless of the number of Assessments, an insurer providing loss assessment coverage to a Unit Owner is not required to pay more than an amount equal to that Unit Owner's loss assessment coverage limit as a result of the same direct loss to property.

(4) Every individual Unit Owner's residential property policy must contain a provision stating that the coverage afforded by such policy is excess coverage over the amount recoverable under any other policy covering the same property.

E. All reconstruction work after a property loss must be undertaken by the Association except as otherwise authorized in this Section 15. A Unit Owner may undertake reconstruction work on portions of the Unit with the prior written consent of the Board of Directors. However, such work may be conditioned upon the approval of the repair methods, the qualifications of the proposed contractor, or the contract that is used for that purpose. A Unit Owner must obtain all required governmental permits and approvals before commencing reconstruction.

F. Unit Owners are responsible for the cost of reconstruction of any portions of the Condominium Property for which the Unit Owner is required to carry property insurance, or for which the Unit Owner is responsible under subsection (H) below, and the cost of any such reconstruction work undertaken by the Association is chargeable to the Unit Owner and enforceable as an Assessment and may be collected in the manner provided for the collection of Assessments pursuant to Section 718.116 of the Condominium Act.

G. Any portion of the Condominium Property that must be insured by the Association against property loss pursuant to Section 15.1(A)-(C) above which is damaged by an insurable event shall be reconstructed, repaired, or replaced as necessary by the Association as a Common Expense. In the absence of an insurable event, the Association or the Unit Owners shall be responsible for the reconstruction, repair, or replacement, as determined by the maintenance provisions of this Declaration. All property insurance deductibles and other damages in excess of property insurance

coverage under the property insurance policies maintained by the Association are a Common Expense, except that:

(1) A Unit Owner is responsible for the costs of repair or replacement of any portion of the Condominium Property not paid by insurance proceeds if such damage is caused by intentional conduct, negligence, or failure to comply with the terms of this Declaration or the Rules and Regulations by a Unit Owner, the members of his Family, Unit occupants, Tenants, Guests, or invitees, without compromise of the subrogation rights of the insurer.

(2) The provisions of paragraph (1) above regarding the financial responsibility of a Unit Owner for the costs of repairing or replacing other portions of the Condominium Property also apply to the costs of repair or replacement of personal property of other Unit Owners or the Association, as well as other property, whether real or personal, which the Unit Owners are required to insure.

(3) To the extent the cost of repair or reconstruction for which the Unit Owner is responsible under this subsection (G) is reimbursed to the Association by insurance proceeds, and the Association has collected the cost of such repair or reconstruction from the Unit Owner, the Association shall reimburse the Unit Owner without the waiver of any rights of subrogation.

(4) The Association is not obligated to pay for reconstruction or repairs of property losses as a Common Expense if the property losses were known or should have been known to a Unit Owner and were not reported to the Association until after the insurance claim of the Association for that property was settled or resolved with finality, or denied because it was untimely filed.

H. The Association is not obligated to pay for any reconstruction or repair expenses due to property loss to any improvements installed by a current or former Owner of the Unit or by the developer of the Condominium if the improvement benefits only the Unit for which it was installed and is not part of the standard improvements installed by the developer on all Units as part of original construction, whether or not such improvement is located within the Unit. This does not relieve any party of its obligations regarding recovery due under any insurance implemented specifically for such improvements.

15.2 Association Insurance: Duty and Authority to Obtain. The Association shall use its best efforts to obtain and maintain adequate property insurance to protect the Association, the Association Property, Common Elements and the Condominium Property which it is required to carry by law and under 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. Adequate property insurance must be based on the replacement cost of the property to be insured as determined by an independent insurance appraisal or update of a prior appraisal. The replacement cost must be determined at least once every 36 months. When determining the adequate amount of property insurance coverage, the Board of Directors may consider deductibles as determined pursuant to Section 718.111 of the Condominium Act. The deductibles must be consistent with industry standards and prevailing practice for communities of similar size and age, and having similar construction and facilities in the locale where the Condominium Property is situated. The

deductibles may be based upon available funds, including reserve accounts, or predetermined Assessment authority at the time the insurance is obtained. The insurance required hereunder shall afford the following protection:

15.2.1 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.

15.2.2 Flood. In amounts deemed adequate by the Board of Directors, but in no event less than the maximum amount as available through the National Flood Insurance Program.

15.2.3 General 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.

15.2.4 Workers' Compensation. The Association shall maintain Workers' Compensation insurance on at least a minimum premium basis.

15.2.5 Directors, Officers and Committee Members Liability Insurance.

15.2.6 Fidelity Bond/Insurance. As required by the Condominium Act.

15.3 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.

15.4 Description of Coverage. A detailed summary of the coverages 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.

15.5 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 Association, 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.

15.6 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 shall be payable 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 in the following shares:

15.6.1 Common Elements. Proceeds on account of damage to Common Elements shall be held in as many individual shares as there are Units, the shares of each Unit Owner being the same as his share in the Common Elements.

15.6.2 Units. In the case of less than "very substantial" destruction (as such term is defined in Section 16.3 below), proceeds on account of damage within the Units shall be held for the Unit

Owners of damaged Units in proportion to the cost of repairing the damage suffered by each Unit Owner less the deductible. For purposes of this determination, damage which is the Unit Owner's responsibility to insure shall be excluded.

15.6.3 Mortgage. If a mortgagee endorsement has been issued as to a Unit, the shares of the mortgagee and the Unit Owner shall be as their interests appear. In no event shall any mortgagee have the right to demand application of insurance proceeds to any mortgage or mortgages which it may hold against Unit or Units, unless: insurance proceeds on account of damage to that Unit are not used for repairs; the insurance proceeds exceed the actual cost of repair or restoration of the damaged building; or the Condominium is terminated. Except as otherwise expressly provided, no mortgagee shall have any right to participate in determining whether improvements will be restored after casualty.

15.7 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:

15.7.1 Cost of Repair or Reconstruction. If the damage for which the proceeds are paid is to be repaired or reconstructed by the Association, the proceeds shall be paid to defray the costs thereof. Any proceeds remaining after defraying costs shall be distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being paid jointly to them. This is a covenant for the benefit of mortgagees and may be enforced by them.

15.7.2 Failure to Repair or Reconstruct. If it is determined in the manner elsewhere provided herein that the damages for which the proceeds are paid shall not be repaired or reconstructed, the proceeds shall be distributed to the beneficial owners, with remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of mortgagees and may be enforced by them.

15.8 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 loss to the Condominium Property.

16. RECONSTRUCTION OR REPAIR AFTER CASUALTY: If any part of the Condominium Property is damaged by casualty, whether and how it shall be repaired, restored and rebuilt shall be determined as follows:

16.1 Damage to Units. Where loss or damage occurs within one or more Units, without damage to the Common Elements, any Association insurance proceeds received on account of the loss or damage shall be used by the Association to repair and reconstruct those improvements in the Unit(s) with respect to which the Association is obligated to insure pursuant to the Condominium Act. Any insurance proceeds received by the Unit Owner(s) shall be used to repair and reconstruct those improvements in the Unit(s) with respect to which the Unit Owner(s) is obligated to insure pursuant to the Condominium Act.

16.2 Damage to Common Elements - Less than "Very Substantial". Where loss or damage occurs to the Common Elements or to one or more Units and the Common Elements, but the loss is less than "very substantial", as defined in Section 16.3 below, it shall be mandatory for the Association and the Unit Owners, as applicable, to repair and reconstruct the damaged improvements, and the following procedures shall apply:

A. The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of repair, restoration and rebuilding and shall negotiate and contract for repair and reconstruction.

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 Assessment shall be added to the funds available for repair and reconstructing the property.

16.3 "Very Substantial" Damage. As used in the Declaration, the term "very substantial" damage shall mean loss or damage whereby Units to which more than 50% of the undivided shares in the Common Elements are appurtenant are rendered uninhabitable. Should such "very substantial" damage occur:

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. This authority includes actions to protect life and property, to evacuate or shore-up structures and salvage property, to engage security to protect against looting or other criminal acts, and to alter the Condominium Property or Association Property as might be reasonable under the circumstances to protect the Condominium Property or Association Property from further damage or deterioration. This authority includes the authority to expend any and all available Association funds, including reserves and to specially assess the Members for such purposes.

B. The Board of Directors shall endeavor to obtain reliable, detailed estimates of the cost of repair and reconstruction, pursuant to competitive bidding. However, the preceding sentence is not intended to limit the ability of the Association to obtain needed products and services on an emergency basis or if the business entity with which the Association desires to enter into a contract is the only source of supply within Collier County.

C. A Members' meeting shall be held not later than 60 days after the Board has obtained the estimates to determine whether the Members wish to rebuild or terminate the Condominium Property. The Condominium shall be rebuilt unless the Owners of Units to which at least 75% of the undivided shares of the Common Elements are appurtenant vote for termination.

D. If any dispute shall arise as to whether "very substantial" damage has occurred, a determination by the Board of Directors shall be conclusive and shall be binding upon all persons.

16.4 Application of Insurance Proceeds. It shall be presumed that the first monies disbursed for repair and restoration are 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 distributed to the Unit Owners, except as otherwise provided in Section 15.6.3 above, or applied as a credit towards future Assessments, in the Board's discretion.

16.5 Equitable Relief. In the event of damage to the Common Elements which renders any Unit uninhabitable, and the damage is not repaired or restored within a reasonable period of time under the circumstances, the Owner of the uninhabitable Unit may petition a court for equitable relief, which may include a termination of the Condominium and a partition.

16.6 Plans and Specifications. Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the original Condominium Property. However, if the damaged property is the building (i.e., the owner), reconstruction or repairs may be made according to different plans and specifications approved by the Board or Directors and by the Owners of Units in accordance with Section 11.7 above. Such approvals may not be unreasonably withheld. Approval from the Owners is not required to the extent that deviations from the original plans and specification are required by the applicable building code(s) in effect at that time.

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 for the taking of Common Elements 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 Unit Owner.

17.2 Determination Whether to Continue Condominium. Whether the Condominium will be continued after condemnation will be determined in the same manner provided 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 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, 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.

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 purposes 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 affected in the Condominium:

1 7.5. 1 Restoration of Unit. The Unit shall be made habitable. If the cost of restoration exceeds the amount of the award, the additional funds required shall be paid by the Owner of the Unit.

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

17.5.3 Adjustment of Shares in Common Elements. If the floor area of a Unit is reduced by the taking, the percentage representing the share in the Common Elements appurtenant to the Unit shall be recalculated by taking the new square footage of the Unit divided by the total square footage of all Units.

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 affected in the Condominium:

17.6.1 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 Unit Owner and mortgagee(s).

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

17.6.3 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 Units. This shall be done by restating the shares of the continuing Units in the Common Elements as percentages of the total of the numbers representing the shares as they existed prior to the adjustment.

17.6.4 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 Units that will continue as Units after the changes in the Condominium affected by the taking. The Assessments shall be made in proportion to the shares of those Units in the Common Elements after the changes affected by the taking.

17.6.5 Appraisal. 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 30 days after notice by either party, the value shall be determined by appraisal in accordance with the following. The Unit Owner, the Institutional Mortgagee, if any, and the Association 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. A judgment of specific performance upon the fair market value calculated in this way 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 shall be used to make the remanence 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 after adjustment of these shares

on account of the condemnation. If a Unit is mortgaged, the remittance shall be paid jointly to the Owner and mortgagee(s) of the Unit.

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. Such amendment must be approved only by a majority of all Directors, and the consent and joinder of Unit Owners or mortgagees is not required for any such amendment.

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

18.1 Destruction. If it is determined in the manner provided in Section 16.3 that the building shall not be repaired or restored because of "very substantial" damage, the Condominium will be terminated without agreement.

18.2 Agreement. The Condominium may be terminated at any time by written approval of a plan of termination by all of the Owners of Units and by all mortgagees who have recorded their mortgages. If the proposed termination is submitted to a Members' meeting, the notice of which meeting gives notice of the proposed termination, and if the approval of the Owners of Units to which not less than 80% of the Common Elements are appurtenant, and of the record owners of all mortgages upon Units, are obtained no later than 30 days from the date of such meeting, then the approving Owners shall have an option to buy all of the Units of the non-approving Owners during the period ending on the 60th day from the date of such meeting.

18.3 Exercise of Option. The option shall be exercised by delivery or mailing by certified mail to each of the record Owners of the Units to be purchased of an agreement to purchase signed by the Owners of Units who will participate in the purchase. Such agreement shall indicate which Units will be purchased by each participating Owner, pursuant to which such Owners agree to purchase all of the Units owned by Owners not approving the termination. The agreement shall affect a separate contract between each seller and his purchaser.

18.4 Price and Payment. The sale price for each Unit shall be the fair market value determined by agreement between the seller and purchaser within 30 days from the delivery or mailing of such agreement and in the absence of agreement as to price, it shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit. A judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser. The purchase price shall be paid in cash.

18.5 Closing.

The sale shall be closed within 10 days following the determination of the sale price. If for any reason the purchase of a particular Unit does not close, this shall not affect the validity of the purchase of the other Units.

18.6 Certificate.

The termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its appropriate officers with the formality of a deed, certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the Public Records of Collier County, Florida.

18.7 Share of Owners After Termination. After termination of the Condominium, the Unit Owners shall own the Condominium Property and all assets of the Association as tenants in common in undivided shares, and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the Unit Owners. Such undivided shares of the Unit Owners shall be the same as the undivided shares in the Common Elements appurtenant to the Owners' Units prior to the termination.

19. ENFORCEMENT:

19.1 Duty to Comply: Right to Sue. Each Unit Owner, his Family members, Tenants, Guests and invitees, and the Association are governed by and must comply with the provisions of the Condominium Act and the Condominium Documents, which shall be deemed expressly incorporated into any lease of a Unit. 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, Guest or invitee 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 Unit 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. Actions arising under this Section 19 or the Condominium Act may not be deemed to be actions for specific performance.

19.3 Attorneys' Fees. In any legal proceeding arising out of an alleged failure of a Unit Owner, Family member, Guest, Tenant or other invitee, or the Association to comply with the requirements of the Condominium Act and/or the Condominium Documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such attorneys' 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, except as otherwise provided in Section 17.

20.2 Notice of Casualty or Condemnation. In the event of condemnation, eminent domain proceeding, or very substantial damage to, or destruction of, any Unit or any part of the Common Elements, the Institutional Mortgagee of an affected Unit shall be entitled to notice.

20.3 Mortgage Foreclosure. If an Institutional Mortgagee acquires title to a Condominium Parcel as a result of foreclosure of the Institutional Mortgagee, or as the result of a deed given in lieu of foreclosure, the Institutional Mortgagee shall be liable for the share of Common Expenses or Assessments attributable to the Condominium Parcel, which came due prior to the Institutional Mortgagee's acquisition of title, to the fullest extent provided by the Condominium Act, as the same may be amended from time to time. Any unpaid share of Common Expenses for which such acquirer is exempt from liability becomes a Common Expense collectible from all Unit Owners. No party who acquires 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 written 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 copy of the financial statement of the Association for the immediately preceding fiscal year.

20.7 Lender's Notices. Upon written request to the Association, any Institutional Mortgagee shall be entitled to timely written notice of:

A. Any 60 day or longer delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which it holds an Institutional Mortgage.

B. A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

C. Any proposed action that requires the consent of a specified percentage of mortgage holders. Whenever the prior written consent of a mortgagee or

lienholder is required in the Condominium Documents, the prior written consent shall not be unreasonably withheld.

20.8 Institutional Mortgagee Priority Over Insurance Proceeds and Condemnation Awards. Notwithstanding any language contained in this Declaration to the contrary, no Unit Owner and no other party shall have priority over any rights of any Institutional Mortgagee pursuant to its Institutional Mortgage in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or takings of Units and/or any portion of the Common Elements and no amendment to this Section 20.8 shall be made without the prior written consent of all Institutional Mortgagees.

20.9 Valid Lien. No breach of any of the covenants, conditions and restrictions contained in this Declaration, nor the enforcement of any lien provisions herein, shall render invalid the lien of an Institutional Mortgagee on any Unit.

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

21.1 Proposal. Amendments to this Declaration may be proposed by the Board of Directors, or by written petition to the Board signed by at least 25% of the Voting Interests.

21.2 Procedure. Upon any amendment or amendments to this Declaration being proposed as provided above, the 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 be given.

21.3 Vote Required. Except as otherwise provided by law, or by specific provision of the Condominium Documents, this Declaration may be amended if the proposed amendment is approved by at least 2/3 of the Voting Interests, provided that notice of the proposed amendment has been given to the Members in accordance with the Condominium Act and the Bylaws. The Condominium Documents shall be deemed amended by virtue of revisions to statutes and regulations which control over conflicting provisions of the Condominium Documents. The Board of Directors shall have the authority to amend the Condominium Documents in order to conform the provisions thereof with such revisions to statutes and regulations. In addition, the Board of Directors may amend the Condominium Documents to correct scrivener's errors or omissions and amend and restate the Condominium Documents in order to consolidate into one document amendments previously adopted by the Members or the Board. Amendments adopted by the Board shall occur at a duly noticed Board meeting (with adoption of the amendments set forth on the agenda). The Board shall supply the Members with a copy of the adopted amendments.

21.4 Certificate; 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. Any amendment which materially alters or modifies the appurtenances to the Unit or changes the proportion or percentage by which the Owner of a Unit shares the Common Expenses and owns the Common Surplus, must be approved by 100% of the Voting Interests and lienholders. Any amendment which changes the configuration or size of a Unit must be approved

by: the affected Unit Owner(s); lienholders on such affected Unit(s); and a majority of the Voting Interests. This proviso does not apply to changes caused by condemnation or a taking by eminent domain as provided in Section 17.

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 Article of Incorporation or Bylaws, the Declaration shall control. If there is a conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation 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 retained by the Board 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 heading used in the Condominium Documents are or reference purposes only, and do not constitute substantive matter to be considered in construing the terms and provisions of the Condominium Documents.

EXHIBIT "A"

AMENDED AND RESTATED ARTICLES OF INCORPORATION LE CIEL VENETIAN TOWER ASSOCIATION, INC.

Pursuant to Chapter 617, Florida Statutes, the Articles of Incorporation for Le Ciel Venetian Tower Association, Inc., a Florida corporation not for profit, are hereby amended and restated in their entirety. All amendments included herein have been adopted pursuant to Chapter 617, Florida Statutes, and there is no discrepancy between the Association's Articles of Incorporation as heretofore amended and the provisions of these Amended and Restated Articles, other than the inclusion of amendments adopted pursuant to Chapter 617, Florida Statutes and the omission of matters of historical interest. The definitions set forth in Section 4 of the Declaration shall apply to terms used herein. The Amended and Restated Articles of Incorporation shall henceforth be as follows:

ARTICLE I

NAME: The name of the Association is Le Ciel Venetian Tower Association, Inc., and its address is 3971 Gulf Shore Boulevard North, Naples, FL 34103.

ARTICLE II

PURPOSE AND POWERS: The purpose for which the Association is organized is to provide an entity pursuant to the Condominium Act for the operation of Le Ciel Venetian Tower, a Condominium, located in Collier County, Florida.

The Association is organized and shall exist on a non-stock basis as a corporation not for profit under the laws of the State of Florida, and no portion of any earnings of the Association shall be distributed or inure to the private benefit of any Member, Director or Officer. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not for profit under the laws of the State of Florida, except as limited or modified by the Condominium Documents or the Condominium Act; and it shall have all of the powers and duties reasonably necessary to operate the Condominium pursuant to the Condominium Documents as they may hereafter be amended, including but not limited to the following:

(A) To make and collect Assessments against Members of the Association to defray the costs, expenses and losses of the Association, and to use the funds in the exercise of its powers and duties.

(B) To protect, maintain, repair, replace and operate the Condominium Property.

(C) To purchase insurance upon the Condominium Property for the protection of the Association and its Members.

(D) To reconstruct improvements after casualty, and to make improvements of the Condominium Property, as well as to purchase items of furniture, furnishings, fixtures and equipment. To make, amend and enforce Rules and Regulations, subject to any limits set forth in the Condominium Documents.

(E) To approve or disapprove the transfer, leasing and occupancy of Units, as provided in the Declaration.

(F) To enforce the provisions of the Condominium Act and the Condominium Documents.

(G) To contract for the management and maintenance of the Condominium Property and to delegate any powers and duties of the Association in connection therewith except such as are specifically required by law or by the Condominium Documents to be exercised by the Board of Directors or the membership of the Association.

(H) To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the Association.

(I) To enter into agreements, or acquire leaseholds, memberships, and other possessory, ownership or use interests in lands or facilities. It has this power whether or not the lands or facilities are contiguous to the lands of the Condominium, if they are intended to provide enjoyment, recreation, or other use or benefit to the Owners.

(J) To borrow money as necessary to perform its other functions hereunder.

(K) To sue and be sued.

All funds and the title to all property acquired by the Association shall be held for the benefit of the Members in accordance with the provisions of the Condominium Documents.

ARTICLE III

MEMBERSHIP:

(A) The Members of the Association shall be the record Owners of legal title to the Units in the Condominium, as further provided in the Bylaws.

(B) The share of a Member in the funds and assets of the Association cannot be assigned or transferred in any manner except as an appurtenance to his Unit, but nothing shall prevent the Association from pledging, assigning or otherwise encumbering its Assessments as collateral for a loan.

(C) The Owners of each Unit, collectively, shall be entitled to one vote in Association matters. The manner of exercising voting rights shall be as set forth in the Bylaws.

ARTICLE IV

TERM: The term of the Association shall be perpetual.

BYLAWS: The Bylaws of the Association may be altered, amended, or rescinded in the manner provided therein.

ARTICLE VI

DIRECTORS AND OFFICERS:

(A) The affairs of the Association shall be administered by a Board of Directors consisting of the number of Directors determined by the Bylaws, but in no event less than three (3) Directors.

(B) Directors of the Association shall be elected by the Members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

(C) The business of the Association shall be conducted by the Officers designated in the Bylaws. The Officers shall be elected each year by the Board of Directors at its first meeting after the annual meeting of the Members, and they shall serve at the pleasure of the Board.

ARTICLE VII

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

(A) Proposal. An amendment to these Articles may be proposed by the Board of Directors or by written petition to the Board of Directors signed by 25% of the Voting Interests.

(B) Upon any amendment being proposed as provided above, the proposed amendment shall be submitted to a vote of the Members not later than the next annual meeting for which proper notice can still be given. The text of the proposed amendment shall accompany the notice of meeting or a notice that a vote will occur by written consents in lieu of a meeting. A proposed amendment shall contain the full text of the language with proposed new words in the text underlined and words to be deleted lined through with hyphens, unless the proposed change is so extensive that this procedure would hinder rather than assist the understanding of the proposed amendment. In the latter case, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Articles. See Articles, Section ____ for present text."

(C) Except as otherwise provided by law, a proposed amendment must be approved by at least a majority of the Voting Interests that are present (in person or by proxy) and voting at a members' meeting at which a quorum has been established, provided that notice of the proposed amendment has been given to the Members in accordance with the Condominium Act and the Bylaws. These Articles shall be deemed amended by virtue of revisions to statutes and regulations which control over conflicting provisions of these Articles. The Board of Directors shall have the authority to amend these Articles in order to conform the provisions thereof with such revisions to statutes and regulations. In addition, the Board of Directors may amend these Articles to correct scrivener's errors or omissions and amend and restate these Articles in order to consolidate into one document amendments previously adopted by the members or the Board of Directors. Amendments adopted by the Board of Directors shall occur at a duly noticed Board of Directors meeting (with adoption of the amendments set forth on the agenda).

(D) Effective Date. An amendment shall become effective upon filing with the Florida Department of State and recording a Certificate of Amendment in the Public Records of Collier County, Florida, with the formalities required by the Condominium Act.

ARTICLE VIII

INDEMNIFICATION: To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every Director and every officer of the Association against all expenses and liabilities, including attorneys' fees, actually and reasonably incurred by or imposed on him in connection with any legal proceeding (or settlement or appeal of such proceeding) to which he may be a party because of his being or having been a Director or officer of the Association. Expenses incurred by an officer or Director in defending a civil or criminal proceeding, or the threat of same, may be paid by the Association in advance of final disposition of such proceeding upon receipt of any undertaking by or on behalf of such Director or officer to repay such amount if he or she is ultimately found not to be entitled to indemnification by the Association pursuant to this section. Expenses incurred by other employees and agents may be paid in advance upon such terms that the Board deems appropriate. The foregoing right of indemnification shall not be available if a judgment or other final adjudication establishes that his actions or omissions to act were material to the cause adjudicated and involved:

(A) Willful misconduct or a conscious disregard for the best interests of the Association, in a proceeding by or in the right of the Association to procure a judgment in its favor.

(B) A violation of criminal law, unless the Director or officer had no reasonable cause to believe his action was unlawful or had reasonable cause to believe his action was lawful.

(C) A transaction from which the Director or officer derived an improper personal benefit.

In the event of a settlement, the right to indemnification shall not apply unless the Board of Directors approves such settlement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which a Director or officer may be entitled.

