

**AMENDED AND RESTATED BYLAWS OF  
LE CIEL VENETIAN TOWER ASSOCIATION, INC.**

**1. GENERAL.** These are the Amended and Restated Bylaws of Le Ciel Venetian Tower Association, Inc., hereinafter the "Association", a Florida corporation not for profit organized under the laws of Florida for the purpose of operating the Condominium pursuant to the Condominium Act. All prior Bylaws are hereby revoked and superseded in their entirety.

1.1 Principal Office. The principal office of the Association is 3971 Gulf Shore Boulevard North, Naples, FL 34103.

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

1.3 Definitions. The definitions set forth in the Declaration (or the Condominium Act, if in conflict with the definition in the Declaration or such term is not defined in the Declaration) shall apply to terms used in these Bylaws.

**2. MEMBERS.**

2.1 Qualifications. Membership in the Association shall be established as set forth in the Articles of Incorporation. Membership shall become effective upon the occurrence of the last to occur of the following events.

(A) Recording in the Public Records of a deed or other instrument evidencing legal title to a Unit.

(B) Approval by the Board of Directors as may be provided for in the Declaration of Condominium.

(C) Delivery to the Association of a copy of the recorded deed or other instrument evidencing title.

(D) Delivery to the Association, if required, of a written designation of the Primary Occupant.

The failure to comply with the prerequisites set forth in (B)-(D) above shall not release the Unit Owner from the obligation to comply with the Condominium Documents, but shall otherwise preclude such Unit Owner from obtaining the benefits of membership, including, without limitation, the right to receive notices and the right to vote on Association matters.

2.2 Voting Interests. The Members of the Association are entitled to one vote for each Unit owned by them. The total number of possible votes is equal to the total number of Units in the Condominium. Therefore, the term "Voting Interest" has the same meaning as "Unit" and the term "Voting Interests" has the same meaning as "Units" for purposes of determining the number of Units that must approve certain actions as provided in the Condominium Documents and the Condominium Act. The vote of a Unit is not divisible. If a Unit is owned by one person, his or her

right to vote shall be established by the record title to the Unit. If a Unit is owned jointly by 2 or more persons, that Unit's vote may be cast by any one of the record Unit Owners. If 2 or more Owners of a Unit do not agree among themselves as to how their one vote shall be cast, no vote for that Unit shall be counted. If the Unit Owner is not a natural person, the vote of that Unit shall be cast by any officer, partner, managing member or member, trustee (or beneficiaries of a trust who are the occupants of a Unit) of a corporation, partnership, limited liability company or trust, respectively.

2.3 Approval or Disapproval of Matters. Whenever the decision or approval of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, such decision may be expressed by any person authorized to cast the vote of such Unit at an Association meeting as stated in Section 2.2 above, unless the joinder of all record Unit Owners is specifically required.

2.4 Change of Membership. Following written approval of the Association, a change of membership in the Association shall be established by the new Member's membership becoming effective as provided in 2.1 above. At that time the membership of the prior Member shall be terminated automatically.

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

### 3. MEMBERS' MEETINGS.

3.1 Annual Meeting. An annual meeting shall be held in Collier County, Florida each year at a day, time and place designated by the Board of Directors. The purpose of the annual meeting is to conduct the election of Directors and for any purpose as may be transacted by the Members. During the annual meeting the ballots cast in the annual election of Directors shall be counted and results announced.

3.2 Special Members' Meetings. Special Members' meetings must be held whenever called by the President or by a majority of the Directors and may also be called by Members having at least 25% of the Voting Interests. The substantive business to be voted on at any special or regular Members' meeting shall be limited to the items specified in the notice of meeting.

3.3 Notice of Meetings; Waiver of Notice; Participation in Meetings. Notice of all Members' meetings must state the time, date, and place of the meeting, and include an agenda for the meeting. The notice of meeting must be mailed to each Member at the address which appears on the books of the Association (which shall be the address last furnished to the Association by the Unit Owner), or may be furnished by hand-delivery, or by electronic transmission in the manner set forth in Section 617.0141, Florida Statutes, to the extent that a Member has consented to receive notices by electronic transmission and has not revoked such consent. Any such consent to receiving electronic transmissions shall be deemed revoked if: the Association is unable to deliver by electronic transmission 2 consecutive notices given by the Association in accordance with such consent; and such inability becomes known to the Secretary, Assistant Secretary or other authorized person responsible for the giving of notice. However, the inadvertent failure to treat such inability as a revocation does not invalidate any meeting or other action. Notice of a meeting called to recall a member or members of the Board of Directors pursuant to Section 718.112(2)(j) of the Condominium Act shall not be given by electronic transmission. The Member is responsible

for providing the Association with notice of any change of mailing address, facsimile number or electronic mail address. To the extent that a Member has provided the Association with a facsimile number or electronic mail address and consented to receive notices by electronic transmission, such information shall be considered an "official record" until the Member has revoked his consent. However, the Association is not liable for an erroneous disclosure of an electronic mail address or facsimile number. The notice of meeting must be mailed, hand-delivered, or electronically transmitted at least 14 continuous days before the meeting. An affidavit of the Officer or other person making such mailing shall be retained in the Association records as proof of mailing. If ownership of a Unit is transferred after notice has been mailed, no separate notice to the new Unit Owner is required. A Member may waive notice of any meeting at any time, but only by written waiver. However, attendance at any meeting by a Member constitutes waiver of notice by that Member unless the Member objects to the lack of notice at the beginning of the meeting. Members have the right to participate in all Members' meetings with reference to all designated agenda items. A Member may tape record or videotape a Members' meeting subject to any applicable Rules and Regulations.

3.4 Notice of Annual Meeting. Notice of the annual meeting shall be posted in a conspicuous location at the Condominium Property for at least 14 continuous days before the annual meeting. In lieu of or in addition to the physical posting of meeting notices, the Association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the Association. However, if broadcast notice is used in lieu of a notice posted physically on the Condominium Property, the notice and agenda must be broadcast at least 4 times every broadcast hour of each day that a posted notice is otherwise required under these Bylaws and the Condominium Act. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda.

3.5 Quorum. A quorum at meetings of the Members shall be attained by the presence, either in person or by proxy, of Members entitled to cast at least a majority of the Voting Interests. After a quorum has been established at a Members' meeting, the subsequent withdrawal of any Members, so as to reduce the number of Voting Interests represented below the number required for a quorum, shall not affect the validity of any action taken at the meeting before or after such persons leave.

3.6 Vote Required. The acts approved by a majority of the votes cast, in person or by proxy, at a duly called meeting of the Members at which a quorum has been attained shall be binding upon all Unit Owners for all purposes, except where a greater or different number of votes is expressly required by law or by any provision of the Condominium Documents.

3.6.1 Electronic Voting. Pursuant to Section 718.128 of the Condominium Act, the Association may conduct elections and other Unit Owner votes through an internet-based online voting system if a Unit Owner consents, in writing, to online voting and if the following requirements are met:

(A) The Association provides each Unit Owner with:

- (1) A method to authenticate the Unit Owner's identity to the online voting system;
- (2) For elections of the Board of Directors, a method to transmit an electronic ballot to the online voting system that ensures the secrecy and integrity of each ballot; and

(3) A method to confirm, at least 14 days before the voting deadline, that the Unit Owner's electronic device can successfully communicate with the online voting system.

(B) The Association uses an online voting system that is able to:

(1) Authenticate the Unit Owner's identity;

(2) Authenticate the validity of each electronic vote to ensure that the vote is not altered in transit;

(3) Transmit a receipt from the online voting system to each Unit Owner who casts an electronic vote;

(4) For elections of the Board of Directors, permanently separate any authentication or identifying information from the electronic election ballot, rendering it impossible to tie an election ballot to a specific Unit Owner;

(5) Store and keep electronic votes accessible to election officials for recount, inspection, and review purposes.

(C) A Unit Owner voting electronically pursuant to Section 718.128 of the Condominium Act shall be counted as being in attendance at the meeting for purposes of determining a quorum. A substantive vote of the Unit Owners may not be taken on any issue other than the issues specifically identified in the electronic vote, when a quorum is established based on Unit Owners voting electronically pursuant to Section 718.128 of the Condominium Act.

(D) The Board of Directors must adopt a resolution that provides for and authorizes an online voting system pursuant to Section 718.128 of the Condominium Act. Such resolution must: provide that Unit Owners receive notice of the opportunity to vote through an online voting system; establish reasonable procedures and deadlines for Unit Owners to consent, in writing, to online voting; and establish reasonable procedures and deadlines for Unit Owners to opt out of online voting after giving consent. Written notice of a meeting at which the resolution will be considered must be mailed, delivered, or electronically transmitted to the Unit Owners and posted conspicuously on the Condominium Property or Association Property at least 14 days before the meeting. Evidence of compliance with the 14-day notice requirement must be made by an affidavit executed by the person providing the notice and filed with the Association's official records.

(E) A Unit Owner's consent to online voting is valid until the Unit Owner opts out of online voting according to the procedures established by the Board of Directors pursuant to (D) above.

3.7 Proxy Voting. To the extent lawful, any person entitled to attend and vote at a members' meeting may establish his or her presence and cast his or her vote by proxy. A proxy shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting. A proxy is not valid longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the vote for the Unit, specify the date, time and place of the meeting for which it is given, and must be delivered to the Association by the appointed time of the meeting or adjournment thereof. Any copy, facsimile transmission, electronic transmission, or other reliable reproduction of the original proxy may be substituted or used in lieu of the original proxy for any purpose for which the original proxy could be used. Holders of proxies need not be Members. No proxy shall be valid if it names

more than one person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy. Except as specifically otherwise provided herein, Members may not vote by general proxy, but may vote by limited proxy. Limited proxies and general proxies may be used to establish a quorum. Limited proxies and general proxies may not be used in the election of Directors. General proxies may be used for other matters for which limited proxies are not required and may also be used in voting for non-substantive changes to items for which a limited proxy is required and given. Limited proxies shall be used for any matter for which the Condominium Documents or the Condominium Act requires or permits a vote of the Members and for which a general proxy is not permitted, including, without limitation, votes taken to: waive or reduce reserves; waive financial statement requirements, and amend the Condominium Documents. Notwithstanding the foregoing, Members may vote in person at Members' meetings. A Voting Interest or consent right allocated to a Unit owned by the Association may not be exercised or considered for any purpose, whether for a quorum, an election, or otherwise.

3.8 Adjourned Meetings. Any duly called meeting of the Members may be adjourned to be reconvened at a specific later time by vote of a majority of the Voting Interests present in person or by proxy, regardless of whether a quorum has been attained. When a meeting is adjourned it shall not be necessary to give notice to all Members of the time and place of its continuance if such are announced at the meeting being adjourned. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted at the continuance, provided a quorum is then present, in person or by proxy.

3.9 Order of Business/Agenda. The order of business and agenda at Members' meetings shall be substantially as follows:

- (A) Call to order by the President or other designated Chairman of the meeting
- (B) (Annual meeting) Collection of election ballots not yet cast and closing of the polls; or announcement of names of candidates who will take office upon adjournment of the annual meeting
- (C) Call of the roll or certification of a quorum
- (D) Proof of Notice of Meeting (and posting, if applicable)
- (E) Reading or disposal of any unapproved minutes
- (F) Reports of Officers, if any
- (G) Reports of Committees, if any
- (H) Unfinished Business (with the items to be considered specifically listed in the agenda).
- (I) New Business (with the items to be voted on specifically listed in the agenda and in the limited proxy)
- (J) Adjournment

3.10 Minutes. Minutes of all meetings of Members and of the Board of Directors shall be kept in a businesslike manner and available for inspection by Members or their authorized representatives and Directors at reasonable times and for a period of 7 years after the meeting. Minutes must be reduced to written form within 30 days after the meeting at which they were taken.

3.11 Parliamentary Rules. The Chairman of the meeting may appoint a Parliamentarian whose decision on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

3.12 Action by Members Without Meeting. Any action required or permitted to be taken at a meeting of the Members may be taken by mail without a meeting if written consents, setting

forth the action to be taken, are signed by the Members having not less than the minimum number of votes that would be necessary to take such action at a meeting at which all Members entitled to vote on such action were present and voted. Action by Members without a meeting shall be undertaken in the manner required by Chapter 617, Florida Statutes. Nothing in this paragraph shall be construed in derogation of Members' rights to call a special Members' meeting, as provided for elsewhere in these Bylaws.

#### **4. BOARD OF DIRECTORS.**

The administration of the affairs of the Association shall be by the Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Condominium Documents, shall be exercised by the Board of Directors, subject to approval or consent of the Members only when such is specifically required by the Condominium Act or the Condominium Documents.

4.1 Number and Terms of Service. The affairs of the Association shall be managed by a Board of Directors consisting of 7 Directors, who serve staggered terms. Directors shall be elected for 2-year terms. The terms of 4 Directors expire in even numbered years and the terms of 3 Directors expire in odd numbered years. A Director's term will end at the annual election at which his term expires, unless he or she sooner resigns, or is recalled as provided in 4.5 below. Directors shall be elected by the Members as described in Section 4.3 below, or in the case of a vacancy, as provided in Section 4.4 below. Directors may serve a maximum of three (3) consecutive terms. Upon expiration of the third term, a Director shall be required to refrain from service on the Board for one term. Upon expiration of the one term hiatus, the Director may thereafter serve on the Board as provided above.

4.2 Qualifications. Each Director must be a Member or the spouse of a Member (however, a husband and wife may not serve on the Board at the same time), except that an officer, partner, managing member or member, trustee (or beneficiaries of a trust who are the occupants of a Unit) of a corporation, partnership, limited liability company or trust, respectively, owning a Unit, shall be qualified to serve as a Director. In addition to the prohibition on spouses serving on the Board at the same time, co-Owners of a Unit may not serve as Directors at the same time unless they own more than one Unit or unless there are not enough eligible candidates to fill the vacancies on the Board of Directors at the time of the vacancy. Eligibility for candidates and Directors shall further be limited as provided in the Condominium Act, as amended from time to time.

4.3 Nomination and Elections. On the day of each annual meeting the Members shall elect by secret written ballot as many Directors as there are regular terms of Directors expiring. The Board of Directors may not appoint a committee for the purpose of nominating candidates for the election of Directors. However, the Board of Directors may appoint a search committee to encourage qualified persons to become candidates. The First Notice of each annual election shall be mailed, hand-delivered or electronically transmitted to all Unit Owners at least 60 days in advance. Any Unit Owner or other eligible person desiring to be a candidate for the Board must give written notice of his or her intent to be a candidate to the Association at least 40 days before a scheduled election. Notice shall be deemed effective when received by the Association. A person must be eligible to be a candidate to serve on the Board of Directors at the time of the deadline for submitting a notice of intent to run in order to have his or her name listed as a proper candidate on the ballot or to serve on the Board of Directors. Any person indicating his or her desire to qualify as a candidate may also return a separate information sheet, no larger than 8 1/2" by 11", which describes the candidate's background, education and qualifications for office, and any other information deemed relevant by the candidate, which information sheet must be furnished by the candidate at least 35 days prior to the election. The Association has no liability for the contents of the information sheets prepared by the candidates. The Association shall mail, hand-deliver or

electronically transmit a Second Notice of the election, together with the candidate information sheets and ballot which shall list all candidates in alphabetical order by surname, at least 14 days in advance of the election; provided, however, that if the number of candidates does not exceed the number of vacancies, then no election shall be required, and the candidates become members of the Board of Directors effective upon the adjournment of the annual meeting. Directors shall be elected by a plurality of the ballots cast. In the event of a tie vote, the Association shall proceed with a runoff election pursuant to rules adopted by the Division, unless the candidates who have tied voluntarily agree on which candidate shall take office. At least 20% of the Members must cast a ballot in order to have a valid election of Directors. In the election of Directors, there shall be appurtenant to each Unit as many votes for Directors as there are Directors to be elected, but no Unit may cast more than one vote for any candidate, it being the intent hereof that voting for Directors shall be non-cumulative.

4.4 Vacancies on the Board of Directors. If the office of any Director becomes vacant for any reason other than removal by the Members, a majority of the remaining Directors, though less than a quorum, shall promptly choose a successor to fill the remaining unexpired term. If for any reason there shall arise circumstances in which no Directors are serving and the entire Board of Directors is vacant, the Members shall elect successors by written ballot in the same manner as provided generally for regular annual elections, except that the election need not take place on the date of the annual meeting. Alternatively, a Unit Owner may seek the appointment of a receiver pursuant to Section 718.1124 of the Condominium Act.

4.5 Recall of Directors. Any or all Directors who were elected by the Members may be removed ("recalled") with or without cause by a majority vote of the entire membership, either by a written petition, or at any meeting called for that purpose, in the manner required by the Condominium Act.

4.5.1 Recall of Directors by Meeting. A special meeting of the Members to recall a member or members of the Board of Directors may be called by at least 10% of the Voting Interests, giving notice of the meeting as required for any other Members' meeting, and the notice shall state the purpose of the meeting. Electronic transmission may not be used as a method of giving notice of a meeting called in whole or in part for the purpose of a recall. If the recall is approved by a majority of the entire membership by a vote at a meeting, the recall will be effective as provided below. The Board of Directors shall duly notice and hold a Board of Directors meeting within 5 full business days of the adjournment of the Members' recall meeting. At the Board of Directors meeting, the Board of Directors shall either certify the recall, in which case such Director or Directors shall be recalled effective immediately and shall turn over to the Board of Directors within 5 full business days any and all Association records and property in their possession or shall proceed as set forth in Section 4.5.3 below.

4.5.2 Recall of Directors by Written Agreement. If the proposed recall is by a written agreement by a majority of the entire membership, the written agreement or a copy thereof shall be served on the Association by certified mail or by personal service in the manner authorized by Chapter 48, Florida Statutes and the Florida Rules of Civil Procedure. The Board of Directors shall duly notice and hold a Board of Directors meeting within 5 full business days after receipt of the written agreement. At the meeting, the Board of Directors shall either certify the written agreement to recall a member or members of the Board of Directors, in which case such Director or Directors shall be recalled effective immediately and shall turn over to the Board of Directors within 5 full business days any and all Association records and property in their possession or shall proceed as set forth in Section 4.5.3 below.

4.5.3 Recall Arbitration. If the Board of Directors determines not to certify the recall, the Board of Directors shall, within 5 full business days after its meeting, file with the Division a

Petition for Arbitration pursuant to the procedures set forth in Section 718.1255 of the Condominium Act. For the purposes of this section, the Members who voted at the meeting or who executed the written agreement shall constitute one party under the Petition for Arbitration. If the Arbitrator certifies the recall as to any Director or Directors, the recall will be effective upon mailing of the final order of arbitration to the Association. If the Association fails to comply with the Arbitrator's order, the Division may take action pursuant to Section 718.501 of the Condominium Act. Any Director or Directors so recalled shall deliver to the Board of Directors any and all Association records in their possession within 5 full business days of the effective date of the recall.

4.5.4 Failure of Board of Directors to Hold Board of Directors Meeting. If the Board of Directors fails to duly notice and hold a Board of Directors meeting within 5 full business days of service of a written recall agreement or within 5 full business days of the adjournment of the Members' recall meeting, the recall shall be deemed effective and the Directors so recalled shall immediately turn over to the Board of Directors any and all Association records and property in their possession.

If the Board fails to duly notice and hold the required meeting or fails to file the required Petition for Arbitration, the Unit Owners' representative may file a Petition for Arbitration pursuant to Section 718.1255 of the Condominium Act challenging the Board's failure to act. The Petition for Arbitration must be filed within 60 days after the expiration of the applicable 5 full business day period. The review of a Petition for Arbitration in that case shall be limited to the sufficiency of service on the Board and the facial validity of the written agreement of ballots filed. A Director who has been recalled may file a Petition for Arbitration pursuant to Section 718.1255 of the Condominium Act challenging the validity of the recall. The Petition for Arbitration must be filed within 60 days after the recall is deemed certified. The Association and the Unit Owners' representative shall be named as the respondents.

4.5.5 Filling Vacancies Caused by Recall. If a vacancy occurs on the Board of Directors as a result of a recall or removal and less than a majority of the Directors are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining Directors. If vacancies occur on the Board of Directors as a result of a recall and a majority or more of the Directors are removed, the vacancies shall be filled in accordance with administrative rules of the Division.

4.5.6 Administrative Rules of the Division. The recall of one or more Directors shall occur in accordance with Rules 61B-23.0027 and 23.0028, Florida Administrative Code.

4.6 Resignation of Directors. Any Director may resign at any time by sending a written notice of such resignation to the Secretary of the Association. Unless otherwise specified therein, such resignation shall take effect upon receipt by the Secretary'.

4.7 Organizational Meeting. The organizational meeting of a new Board of Directors shall be held within 10 days after the election for purposes of electing Officers and such other business as is customarily conducted at an organizational meeting. The organizational meeting may occur immediately following the election, in which case notice of the organizational meeting may be provided by the existing Board of Directors as a notation in the Second Notice of election. If the notice of the organizational meeting is not provided and posted as part of the Second Notice of election, notice of the organizational meeting must be posted conspicuously on the Condominium Property for at least 48 continuous hours in advance of the meeting.

4.8 Other Meetings. Meetings of the Board of Directors may be held at such time and place in Collier County, Florida, as shall be determined from time to time by the President or a majority of the Directors. Notice of meetings shall be given to each Director, personally or by



mail, telephone, telegram or other form of electronic transmission at least 48 hours prior to the day named for such meeting. If notice is transmitted by facsimile, notice shall be effective if correctly directed to a number at which the Director has consented to receive notice. If notice is transmitted by electronic mail, notice shall be effective if correctly directed to an email address at which the Director has consented to receive notice.

4.9 Notice to Unit Owners. All meetings of the Board of Directors are open to Unit Owners and notices of all Board of Directors meetings shall be posted conspicuously on the Condominium Property for at least 48 continuous hours before each Board of Directors meeting, except in an emergency. Notice of all Board of Directors meetings must specifically identify all agenda items. Any item not included on the agenda may be taken up on an emergency basis by at least a majority plus one of the members of the Board of Directors. Such emergency action must be noticed and ratified at the next regular meeting of the Board of Directors. If 20% of the Voting Interests petition the Board of Directors to address an item of business, the Board of Directors at its next regular Board of Directors meeting or at a special meeting of the Board of Directors, but not later than 60 days after the receipt of the petition, shall place the item on the agenda. Notice of any Board of Directors meeting at which a non-emergency Special Assessment will be considered shall conform to the requirements set forth in Section 6.6 below. Notice of any Board of Directors meeting at which an amendment to Rules and Regulations concerning the use of a Unit will be considered must be mailed, hand-delivered, or electronically transmitted (in the latter case, to those Unit Owners who have so consented) to all Unit Owners and posted conspicuously on the Condominium Property at least 14 days before the meeting. Notice of any Board of Directors meeting at which a budget will be adopted or amended shall conform to the requirements of Section 6.2 below. The rights of Unit Owners to attend Board of Directors meetings includes the right to speak with reference to all designated agenda items, subject to the Rules and Regulations of the Association as to the manner of doing so. Evidence of compliance with the notice and posting requirements set forth in this Section 4.9 and elsewhere in the Condominium Documents (including, without limitation, Sections 6.2 and 6.6 of these Bylaws) may be made by an affidavit executed by the person giving notice and posting same and filed with the Association's official records. Notwithstanding anything to the contrary contained in the Condominium Documents, meetings of the Board of Directors or a committee with the Association's attorney with respect to proposed or pending litigation, if the meeting is held for the purpose of seeking or rendering legal advice, and meetings held for the purpose of discussing personnel matters, shall not be open to the Unit Owners. Notices of Board of Directors meetings may be given by electronic transmission (to those Members who have so consented) in lieu of mail or hand-delivery, when the latter 2 methods are otherwise required pursuant to the Condominium Act. In lieu of or in addition to the physical posting of notices of any meeting of the Board of Directors on the Condominium Property, the Association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the Association. However, if broadcast notice is used in lieu of a notice posted physically on the Condominium Property, the notice and agenda must be broadcast at least 4 times every broadcast hour of each day that a posted notice is otherwise required under these Bylaws and the Condominium Act. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. Tape recording and videotaping of Board of Directors meetings shall be governed by the Rules and Regulations.

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

4.11 Quorum of Directors. A quorum at a Board of Directors meeting shall exist when at least a majority of all Directors are present at a duly called meeting. A Board or committee member's participation in a meeting via telephone, real-time videoconferencing, or similar real-time electronic or video communication counts toward a quorum, and such member may vote as if physically present. A speaker must be used so that the conversation of such members may be heard by the Board or committee members attending in person as well as by any Unit Owners present at a meeting. Directors may not vote or participate by proxy at Board of Directors meetings. Directors may not vote by secret ballot at Board of Directors meetings, except that Officers may be elected by secret ballot. Directors may use e-mail as a means of communication by may not cast a vote on an Association matter via e-mail.

4.12 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum exists shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Condominium Documents or by Florida law. A Director who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless he or she votes against such action or abstains from voting. A Director who abstains from voting shall be deemed to have taken no position with regard to the action. The vote or abstention of each Director present on each issue voted upon shall be recorded in the minutes.

4.13 Adjourned Meetings. The majority of the Directors present at any meeting of the Board of Directors, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specific time and date. Notice of the rescheduled or reconvened meeting shall be provided in the manner set forth in Section 4.8 above. At any reconvened meeting, provided a quorum is present, any business may be transacted that might have been transacted at the meeting as originally called.

4.14 The Presiding Officer. The President of the Association, or in his or her absence, the Vice- President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by a majority of the Directors participating in the meeting.

4.15 Compensation of Directors and Officers. The salaries or fees, if any, to be paid to Directors shall be determined by a majority vote of the Voting Interests at a Membership meeting. Directors and Officers may be reimbursed for all actual and proper out-of-pocket expenses, as determined by the Board of Directors, relating to the proper discharge of their respective duties. Nothing herein shall preclude the Board of Directors from contracting with a Director or Officer as an employee of the Association, on a competitive bid basis for a specific job to be supplied by such Director or Officer. With respect to any contract or other transaction between the Association and one or more of its Directors or any other corporation, firm, association, or entity in which one or more of its Directors are Directors or Officers or are financially interested, the Association shall comply with Section 11.1 below.

4.16 Committees. The Board of Directors may appoint from time to time such standing or temporary committees as the Board of Directors deems necessary and convenient for the efficient and effective operation of the Condominium. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. Meetings of a committee to take final action on behalf of the Board of Directors or make recommendations to the Board of Directors regarding the Association budget shall be open to attendance by any Unit Owner, and notice of such committee meetings shall be posted in the same manner as required in Section 4.9 above for Board of Directors meetings, including by broadcast on closed-circuit cable television system serving the Association. All other committees shall not be subject to the requirements of Section 718.112(2)(c) of the Condominium Act, as set forth in Section 4.9 of these Bylaws, but may

voluntarily post notices of their meetings and open such meetings to attendance by the Unit Owners.

4.17 Order of Business/Agenda. The order of business and agenda at all regular meetings of the Board of Directors shall be as follows:

- (A) Call to Order.
- (B) Call of the Roll or certification of quorum.
- (C) Proof of Notice and Posting.
- (D) Reading or disposal of any unapproved minutes.
- (E) Reports of Officers and manager, if any.
- (F) Reports of committees, if any.  
Unfinished business (with the items to be considered specifically listed in the agenda).
- (G) New business (with the items to be considered specifically listed in the agenda).
- (H) Adjournment.

4.18 Emergency Powers. In accordance with Section 718.1265 of the Condominium Act as amended from time to time, the Board of Directors, in response to damage caused by an event for which a state of emergency is declared pursuant to Section 252.36, Florida Statutes, in the locale in which the Condominium is located, may, but is not required to, exercise the following powers:

(A) Conduct Board of Directors meetings and membership meetings with notice given as is practicable. Such notice may be given in any practicable manner, including publication, radio, United States mail, the Internet, public service announcements, and conspicuous posting on the Condominium Property or any other means the Board of Directors deems reasonable under the circumstances. Notice of Board of Directors decisions may be communicated in the same manner.

(B) Cancel and reschedule any Association meeting.

(C) Name as assistant Officers persons who are not Directors, which assistant Officers shall have the same authority as the executive Officers to whom they are assistants during the state of emergency to accommodate the incapacity or unavailability of any Officer of the Association.

(D) Relocate the Association's principal office or designate alternative principal offices.

(E) Enter into agreements with local counties and municipalities to assist counties and municipalities with debris removal.

(F) Implement a disaster plan before or immediately following the event for which a state of emergency is declared which may include, but is not limited to, shutting down or off electricity, water, sewer, security systems or air conditioners.

(G) Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the Board of Directors, determine any portion of the Condominium Property unavailable for entry or occupancy by Unit Owners, Family members, Tenants, Guests, agents, or invitees to protect the health, safety, or welfare of such persons.

(H) Require the evacuation of the Condominium Property in the event of a mandatory evacuation order in the locale in which the Condominium is located. Should any Unit Owner or other occupant fail or refuse to evacuate the Condominium Property where the Board of Directors has required evacuation, the Association shall be immune from liability or injury to persons or property arising from such failure or refusal.

(I) Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the Board of Directors, determine whether the Condominium Property can be safely inhabited or occupied. However, such determination is not conclusive as to any determination of habitability pursuant to the Declaration.

(J) Mitigate further damage, including taking action to contract for the removal of debris and to prevent or mitigate the spread of fungus, including, but not limited to, mold or mildew, by removing and disposing of wet drywall, insulation, carpet, cabinetry, or other fixtures on or within the Condominium Property, even if the Unit Owner is obligated by the Declaration or law to insure or replace those fixtures and to remove personal property from a Unit.

(K) Contract, on behalf of any Unit Owner(s) for items or services for which the Unit Owner(s) are otherwise individually responsible, but which are necessary to prevent further damage to the Condominium Property. In such event, the Unit Owner(s) on whose behalf the Board of Directors has contracted are responsible for reimbursing the Association for the actual costs of the items or services, and the Association may use its lien authority provided by Section 718.116 of the Condominium Act to enforce collection of the charges. Without limitation, such items or services may include the drying of Units, the boarding of broken windows or doors, and the replacement of damaged air conditioners or air handlers to provide climate control in the Units or other portions of the property.

(L) Levy Special Assessments without a vote of the Unit Owners.

(M) Without Unit Owners' approval, borrow money and pledge Association assets as collateral to fund emergency repairs and carry out the duties of the Association when operating funds are insufficient. This paragraph does not limit the general authority of the Association to borrow money.

The special powers authorized in this Section 4.18 shall be limited to that time reasonably necessary to protect the health, safety, and welfare of the Association and the Unit Owners and the Unit Owners' Family members, Tenants, Guests, agents, or invitees and shall be reasonably necessary to mitigate further damage and make emergency repairs.

## **5. OFFICERS.**

5.1 Officers and Elections. The Officers of the Association shall be a President, Vice-President, Secretary and Treasurer, all of whom shall be elected annually by the Board of Directors. Any Officer may be removed with or without cause by a majority of the entire Board of Directors. The President, Vice-President, Secretary and Treasurer must also be Directors. Any two of said offices may be united in one person, except that the President may not also serve as the Secretary or an Assistant Secretary. The Board of Directors may, from time to time, appoint such other Officers, and designate their powers and duties, as the Board of Directors shall find to be required to manage the affairs of the Association. If the Board of Directors so determines, there may be additional Vice Presidents who are not Directors. An Officer more than 90 days delinquent in the payment of any monetary obligation owed to the Association shall be deemed to have abandoned the office, creating a vacancy in the office to be filled according to Florida law. An Officer charged

by information or indictment with a felony theft or embezzlement offense involving the Association's funds or property must be removed from office, creating a vacancy in the office to be filled according to Florida law until the end of the period of the suspension or the end of the Officer's term of office, whichever occurs first. While such Officer has such criminal charge pending, he or she may not be appointed or elected to a position as an Officer. However, if the charges are resolved without a finding of guilt, the Officer shall be reinstated for the remainder of his or her term of office, if any.

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

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

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

5.5 Treasurer. The Treasurer shall be responsible for Association funds and securities, the keeping of full and accurate amounts of receipts and disbursements in books belonging to the Association, and the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. The Treasurer shall oversee the disbursement of the funds of the Association, keeping proper vouchers for such disbursements, and shall render to the President and Directors, at the meetings of the Board of Directors, or whenever they may require it, an accounting of all transactions and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if any has been designated.

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

6.1 Depository. The Association shall maintain its funds in such banks or financial institutions (which are federally insured or subject to SIPC) authorized to do business in the State of Florida as shall be designated from time to time by the Board of Directors. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board of Directors. The Board of Directors may invest Association funds in interest-bearing accounts, money market funds, certificates of deposit, U.S. Government securities and other similar investment vehicles. All Association funds shall be maintained separately in the Association's name. A manager or business entity required to be licensed or registered under Section 468.432, Florida Statutes, or an agent, employee, Officer, or Director of the Association, shall not

commingle any Association funds with his or her funds or with the funds of any other condominium association or the funds of a community association as defined in Section 468.431, Florida Statutes.

6.2 Budget. The Board of Directors shall adopt a budget of estimated revenues and expenses for each fiscal year. A copy of the proposed budget and a notice stating, the time, date and place of the meeting of the Board of Directors at which the budget will be adopted shall be mailed, hand-delivered or electronically transmitted (to those Unit Owners who have so consented) to the Owner of each Unit not less than 14 days prior to that meeting. The proposed budget shall be detailed and shall show the amounts budgeted by income and expense classifications in the form and manner required by Sections 718.112(2Xf) and 718.504 (21) of the Condominium Act, as the same may be amended from time to time. The Board of Directors shall follow the same procedures outlined above in the event that it wishes to amend an already approved budget for the remainder of the fiscal year.

6.2.1 Member Rejection of Budget. If an annual budget adopted by the Board of Directors requires an Assessment against the Unit Owners in any fiscal year exceeding 115% of the Assessment for the previous fiscal year, the Board of Directors shall conduct a special Members' meeting to consider a substitute budget in accordance with Section 718.112(2)(e), as amended from time to time.

6.3 Statutory Reserves for Capital Expenditures and Deferred Maintenance. In addition to annual operating expenses, each proposed budget must include reserve accounts for capital expenditures and deferred maintenance as required by the Condominium Act, as amended from time to time. The amount to be reserved must be computed using a formula based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The Association may adjust replacement reserve Assessments annually to take into account any changes in estimates of costs or changes in the useful life of a reserve item caused by capital expenditure or deferred maintenance. These reserves shall be funded subject to the Members' ability, in limited circumstances, to fund no reserves or less reserves than required by Section 718.112(2) (f) of the Condominium Act, as amended from time to time. The Board of Directors may schedule its budget meeting to occur immediately after the adjournment of a membership meeting held for purposes of voting on reserve funding for the subsequent fiscal year. Reserves funded under this Section 6.3, and all interest earned on such reserves, shall not be commingled with operating funds (unless combined for investment purposes), and may be used only for the purposes for which they were reserved, unless their use for other purposes is approved in advance by the necessary percentage of the voting interest required by the Condominium Act, as amended from time to time. Operating and reserve funds may be invested in combined accounts, but such funds shall be accounted for separately, and the combined account balance may not, at any time, be less than the amount identified as reserve funds. Operating and reserve funds may be combined in the quarterly Assessment paid by Unit Owners, provided that the operating and reserve funds are segregated within 30 days after receipt (unless combined for investment purposes).

6.4 Contingency Funds. The Board of Directors may establish one or more "contingency funds" for contingencies and operating expenses. The purpose of these contingency funds is to provide financial stability and to avoid the need for Special Assessments on a frequent basis. The amounts proposed to be so funded shall be shown in the proposed annual budget as a line item in the operating portion of the budget. These funds may be spent for any purpose approved by the Board. Contingency funds that are not restricted as to use are not reserves.

6.5 Assessments. Regular annual Assessments based on the adopted budget shall be paid either monthly or quarterly, as determined by the Board. Failure to send or receive notice of

Assessments shall not excuse the obligation to pay. If an annual budget has not been adopted at the time the first installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the first installment of the previous fiscal year and shall be continued at such rate until a budget is adopted and pro rata Assessments are calculated, at which time any overage or shortage shall be added or subtracted from each Unit's next due installment.

6.6 Special Assessments. Special Assessments may be imposed by the Board of Directors when necessary to meet unusual, unexpected, unbudgeted, or non-recurring expenses. Special Assessments are due on the day specified in the resolution of the Board of Directors approving such Special Assessments. Written notice of any Board of Directors meeting at which a non-emergency Special Assessment will be considered, must be mailed, hand-delivered, or electronically transmitted (in the latter case, to those Unit Owners who have so consented) to all Unit Owners and posted conspicuously on the Condominium Property at least 14 days in advance, which notice shall state that Special Assessments will be considered and the nature, estimated cost, and description of the purpose(s) for such Special Assessments, as required by Section 718.112(2)(c) of the Condominium Act. The notice to Unit Owners that any Special Assessment has been levied must contain a statement of the purpose(s) of the Special Assessment, and the funds collected must be spent for the stated purpose(s), as required by Section 718.116(10) of the Condominium Act. If any funds remain upon completion of the purpose(s) such excess funds may, at the discretion of the Board of Directors, either be returned to the Unit Owners or applied as a credit towards future Assessments.

6.7 Fidelity Bonds. The Association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse Association funds. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time, or the maximum amount required by law. The term "persons who control or disburse Association funds", includes, but is not limited to those individuals authorized to sign checks and the President, Secretary and Treasurer of the Association. The Association shall bear the cost of bonding.

6.8 Financial Report. Within 90 days after the end of the fiscal year, the Association shall prepare and complete, or cause to be prepared and completed by a third party, a financial report for the preceding fiscal year. Within 21 days after the financial report is completed or received from the third party, but not later than 120 days after the end of the fiscal year, the Association shall mail or hand deliver to each Owner a copy of the financial report or a notice that a copy of the financial report will be mailed or hand delivered to the Owner, without charge, upon receipt of a written request from the Owner. If approved by a majority of the Voting Interests present at a properly called Members' meeting, the Association may complete, or caused to be completed, a less rigorous financial report than otherwise required pursuant to Section 718.111(13) of the Condominium Act. Such meeting and approval must occur before the end of the fiscal year and is effective only for the fiscal year in which the vote is taken, except that the approval may also be effective for the following fiscal year. The Association may not waive the financial reporting requirements in Section 718.111(13) of the Condominium Act for more than 3 consecutive years.

6.9 Fiscal Year. The fiscal year shall be January 1-December 31, unless modified by the Board of Directors in accordance with IRS regulations.

7. **RULES AND REGULATIONS: USE RESTRICTIONS.** The Board of Directors may, from time to time, adopt and amend Rules and Regulations. Copies of such Rules and Regulations shall be furnished to each Unit Owner by electronic mail to those Unit Owners providing their electronic mailing address to the Association and shall not be required to mail and/or hand deliver copies to each Unit Owner. Rules and Regulations created and imposed by the Board of Directors

must be rationally related to a legitimate Association purpose. The Rules and Regulations may not conflict with the rights of Unit Owners as provided in the Declaration or reasonably inferable therefrom, nor may they conflict with the Condominium Act, as amended from time to time.

**8. COMPLIANCE AND DEFAULT: REMEDIES.** In addition to the remedies provided elsewhere in the Condominium Documents, the following provisions shall apply:

**8.1 Fines and Suspensions.**

(A) The Association may suspend, for a reasonable period of time, the right of a Unit Owner, or a Unit Owner's Tenant, Guest, or invitee, to use the Common Elements, common facilities, or any other Association Property for failure to comply with any provision of the Condominium Documents. This paragraph does not apply to Limited Common Elements intended to be used only by that Unit, Common Elements needed to access the Unit, utility services provided to the Unit, parking spaces, or elevators. The Board of Directors may levy reasonable fines for the failure of the Owner of the Unit, or its occupant, licensee or invitee to comply with any provision of the Condominium Documents. The fines shall be in an amount deemed necessary by the Board of Directors to deter future violations. Unless the Condominium Act is amended: (i) a fine may not exceed \$100.00 per violation (except that a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing); (ii) a fine may not in the aggregate exceed \$1,000.00; and (iii) a fine may not become a lien against a Unit.

(B) A fine may not be levied and a suspension may not be imposed by the Board of Directors pursuant to subsection (A) above unless the Board of Directors provides at least 14 days written notice and an opportunity for hearing to the Unit Owner and, if applicable, its occupant, licensee or invitee. The hearing must be held before a committee of other Unit Owners who are neither Directors nor persons residing in a director's household. If the committee does not agree, the fine or suspension may not be imposed. The role of the committee is limited to determining whether to confirm or reject the fine or suspension levied by the Board of Directors.

(C) The Association may suspend the voting rights of a Unit or Member due to non-payment of any fee, fine, or other monetary obligation due to the Association which is more than 90 days delinquent. The suspension ends upon full payment of all obligations currently due or overdue the Association. A Voting Interest or consent right allocated to a Unit or Member which has been suspended by the Association shall be subtracted from the total number of Voting Interests in the Association, which shall be reduced by the number of suspended Voting Interests when calculating the total percentage or number of all Voting Interests available to take or approve any action, and the suspended Voting Interests shall not be considered for any purpose, including, but not limited to, the percentage or number of Voting Interests necessary to constitute a quorum, the percentage or number of Voting Interests required to conduct an election, or the percentage or number of Voting Interests required to approve an action under the Condominium Act or pursuant to the Condominium Documents.

(D) If a Unit Owner is more than 90 days delinquent in paying a fee, fine or other monetary obligation due to the Association, the Association may suspend the right of the Unit Owner or the Unit's occupant, licensee, or invitee to use Common Elements, common facilities, or any other Association Property until the fee, fine or other monetary obligation is paid in full. This subsection does not apply to Limited Common Elements intended to be used only by that Unit, Common Elements needed to access the Unit, utility services provided to the Unit, parking spaces, or elevators.

(E) All suspensions imposed pursuant to subsections (C) and (D) above must be approved at a properly noticed meeting of the Board of Directors. Upon approval, the Association



must notify the Unit Owner, and, if applicable, the Unit's occupant, licensee or invitee by mail or hand-delivery.

(F) The suspensions permitted by (A), (C) and (D) apply to a Member, and, when appropriate, the Member's Tenants, Guests or invitees, even if the delinquency or failure that resulted in the suspension arose from less than all of the multiple Units owned by a Member.

8.2 Mandatory Non-Binding Arbitration. In the event of any "dispute", as defined in Section 718.1255 of the Condominium Act, between a Unit Owner and the Association, the parties must submit the dispute to mandatory non-binding arbitration under the rules of the Division prior to filing suit in Collier County over the disputed matters. As set forth in the Condominium Act, the term "dispute" does not include any disagreement that primarily involves title to any Unit or Common Element; the interpretation of enforcement of any warranty; the levy of a fee or Assessment, or the collection of an Assessment levied against a party; the eviction or other removal of a Tenant from a Unit; alleged breaches of fiduciary duty by one or more Directors; or claims for damages to a Unit based upon the alleged failure of the Association to maintain the Common Elements or Condominium Property.

8.3 Availability of Remedies. Each Member, for himself or herself, his or her heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of violations regardless of the harshness of the remedy utilized by the Association and regardless of the availability of other legal remedies. It is the intent of all Members to give the Association methods and procedures which will enable it to operate on a businesslike basis, to collect those monies due it and to preserve the majority's right to enjoy the Condominium Property and Association Property free from unreasonable restraint and annoyance.

9. AMENDMENT OF BYLAWS. Amendments to these Bylaws shall be proposed and adopted in the following manner:

9.1 Proposal. Amendments to these Bylaws may be proposed by the Board of Directors or by written petition to the Board of Directors signed by least 25% of the Voting Interests.

9.2 Procedure. 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 Bylaws. See Bylaws, Section \_\_\_\_\_ for present text."

9.3 Vote Required. Except as otherwise provided by law, or by specific provision of these Bylaws, a proposed amendment to these Bylaws shall be adopted if it 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 these Bylaws. These Bylaws shall be deemed amended by virtue of revisions to statutes and regulations which control over conflicting provisions of these Bylaws. The Board of Directors shall have the authority to amend these Bylaws in order to conform the provisions thereof with such revisions to statutes and regulations. In addition, the Board of Directors may amend these Bylaws to correct scrivener's errors or omissions and amend and restate these Bylaws 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).

9.4. 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 Bylaws, which certificate shall be in the form required by law and shall be executed by the President or Vice-President 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.

## **10. OFFICIAL RECORDS.**

10.1 Maintenance of Official Records. The Association shall maintain all the following items, if applicable, that are required to be maintained as "official records" pursuant to Section 718.111(12) of the Condominium Act:

(A) A copy of the plans, permits, warranties, and other items provided by the developer of the Condominium pursuant to Section 718.301(4) of the Condominium Act.

(B) A copy of the recorded Declaration and Bylaws; a certified copy of the Articles of Incorporation; and a copy of all amendments to the foregoing documents.

(C) A copy of the current Rules and Regulations.

(D) A book or books that contain the minutes of all meetings of the Members and the Board of Directors, which minutes must be retained for a period of at least 7 years.

(E) A current roster of all Unit Owners and their mailing addresses, Unit identifications, and, if known, telephone numbers. The Association shall also maintain the electronic mailing addresses and facsimile numbers of Unit Owners consenting to receive notice by electronic transmission. The electronic mailing addresses and facsimile numbers are not accessible to Unit Owners if consent to receive notice by electronic transmission is not provided. However, the Association is not liable for an inadvertent disclosure of the electronic mail address or facsimile number for receiving electronic transmission of notices.

(F) All Association insurance policies, which shall be retained for a period of at least 7 years.

(G) A current copy of any management agreement, lease, or other contract to which the Association is a party or under which the Association or the Unit Owners have an obligation or responsibility, which must be retained for a period of at least 7 years.

(H) Bills of sale or transfer for all Association owned property, which shall be retained indefinitely.

(I) Accounting records, which shall be maintained for a period of at least 7 years. The accounting records must include, but are not limited to:

(1) Accurate, itemized, and detailed records of all receipts and expenditures.

(2) A current account and a monthly, bimonthly, or quarterly statement of the account for each Unit designating the name of the Unit Owner, the due date and amount of each Assessment, the amount paid on the account, and the balance due.

(3) All Association audits, reviews, accounting statements, and financial reports.

(4) All contracts for work to be performed. Bids for work to be performed are also considered official records and must be maintained by the Association. Person who knowingly or intentionally defaces or destroys such accounting records, or who knowingly or intentionally fails to create or maintain such records with the intent of causing harm to the Association or one or more of its Members, is personally subject to a civil penalty pursuant to Section 718.501(1)(d) of the Condominium Act.

(J) Ballots, sign-in sheets, voting proxies, and all other papers relating to voting by Unit Owners, which must be maintained for one year from the date of the election, vote, or meeting to which the document relates.

(K) A copy of the current Question and Answer Sheet as described in Section 718.504 of the Condominium Act.

(L) All other written Association records not specifically included in the foregoing list which are related to the Association's operations, which shall be retained for a period of at least 7 years.

Except as otherwise provided above and by the Condominium Act, all official records must be retained for at least 7 years. The Association may elect to maintain records in excess of the time periods required by the Condominium Act if deemed desirable by the Board of Directors.

**10.2 Access to Official Records.** The Association's official records are open to inspection by any Member or the authorized representative of such Member at all reasonable times within 45 miles of the Condominium Property or within Collier County within 5 working days after receipt of a written request by the Board of Directors or its designee. The Association may comply with this requirement by having a copy of the official records available for inspection or copying on the Condominium Property or Association Property, or the Association may offer the option of making the official records available electronically via the Internet or by allowing the official records to be viewed in electronic format on a computer screen and printed upon request. The Association is not responsible for the use or misuse of the information provided to a Member or his or her authorized representative pursuant to the compliance requirements of the Condominium Act unless the Association has an affirmative obligation not to disclose such information pursuant to the Condominium Act. The right to inspect the records includes the right to make or obtain copies, at the expense, if any, of the Member. The Board of Directors may adopt reasonable Rules and Regulations regarding the frequency, time, location, notice and manner of record inspections and copying. The Association's failure to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the Association willfully failed to comply with this Section. A Unit Owner who is denied access to official records is entitled to the actual damages or minimum damages for the Association's willful failure to comply with this Section. The failure to permit inspection of the official records entitles any person prevailing in an enforcement action to recover reasonable attorney's fees from the person in control of the records, who, directly or indirectly, knowingly denied access to the records for inspection. The Association shall maintain on the Condominium Property an adequate number of copies of the Condominium Documents, as well as the Question and Answer sheet and year-end financial information required by Section 718.112 of the Condominium Act to ensure their availability to Unit Owners and prospective purchasers. The Association may charge its actual costs for preparing and furnishing these documents to those requesting the same. The Association shall allow a Member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the Association providing

the Member or his or her authorized representative with a copy of such records. The Association may not charge for the use of a portable device.

10.3 Official Records Exempt from Inspection and Copying. The following records shall not be accessible to Unit Owners:

(A) Any record protected by the lawyer-client privilege as described in Section 90.502, Florida Statutes; and any record protected by the work-product privilege, including any record prepared by an Association attorney or prepared at the attorney's express direction; which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the Association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of such civil or criminal litigation or proceedings until the conclusion of the litigation or proceedings.

(B) Information obtained by the Association in connection with the approval of the lease, sale or other transfer of a Unit.

(C) Personnel records of Association or management company employees, including, but not limited to, disciplinary, payroll, health and insurance records. For purposes of this subsection (C), the term "personnel records" does not include written employment agreements with an Association employee or management company, or budgetary or financial records that indicate the compensation paid to an Association employee.

(D) Medical records of Unit Owners.

(E) Social security numbers, driver's license numbers, credit card numbers, electronic mail addresses, telephone numbers, facsimile numbers, emergency contact information, any addresses of a Unit Owner other than as provided to fulfill the Association's notice requirements, and other personal identifying information of any person, excluding the person's name, Unit designation, mailing address, property address, and any address, e-mail address or facsimile number provided to the Association to fulfill the Association's notice requirements. Notwithstanding the restrictions in this subsection (E), the Association may print and distribute to Unit Owners a directory containing the name, parcel address and telephone numbers of each Unit Owner. However, a Unit Owner may exclude his or her telephone number from the directory by so requesting in writing to the Association. A Unit Owner may consent in writing to the disclosure of other contact information described in this subsection (E). The Association is not liable for the inadvertent disclosure of information that is protected under this subsection (E) if the information is included in an official record of the Association and is voluntarily provided by a Unit Owner and not requested by the Association.

(F) Electronic security measures that are used by the Association to safeguard data, including passwords.

(G) The software and operating system used by the Association which allow the manipulation of data, even if the Unit Owner owns a copy of the same software used by the Association. The data is part of the official records of the Association.

## **11. COMPETITIVE BIDDING.**

11.1 Requirements. All contracts as further described below or any contract that is not to be fully performed within one year after the making thereof, for the purchase, lease, or renting of materials or equipment to be used by the Association in accomplishing its purposes under the Condominium Act, and all contracts for the provision of services, shall be in writing. If a contract

for the purchase, lease, or renting of materials or equipment, or for the provision of services, requires payment by the Association in the aggregate that exceeds 5% of the total annual budget of the Association, including reserves, the Association shall obtain competitive bids for the materials, equipment, or services. Nothing contained herein shall be construed to require the Association to accept the lowest bid. As to any contract or other transaction between the Association and one or more of its directors or any other corporation, firm, association, or entity in which one or more of its Directors are directors or Officers or are financially interested:

(A) The Association shall comply with the requirements of Section 617.0832, Florida Statutes.

(B) The disclosures required by Section 617.0832; Florida Statutes shall be entered into the written minutes of the meeting.

(C) Approval of the contract or other transaction shall require an affirmative vote of two-thirds of the Directors present.

(D) At the next regular or special meetings of the Members, the existence of the contract or other transaction shall be disclosed to the Members. Upon motion of any Member, the contract or transaction shall be brought up for a vote and may be canceled by a majority vote of the Members present. Should the Members cancel the contract, the Association shall only be liable for the reasonable value of goods and services provided up to the time of cancellation and shall not be liable for any termination fee, liquidated damages, or other form of penalty for such cancellation.

11.2 Exceptions. Notwithstanding the foregoing, contracts with employees of the Association, and contracts for an attorney, accountant, architect, community association manager, engineering and landscape architect services are not subject to the provisions of Section 11.1 above.

11.3 Emergency. Nothing contained in Section 11.1 above is intended to limit the ability of the Association to obtain needed products and services in an emergency.

11.4 Sole Source of Supply. Section 11.1 above shall not apply if the business entity with which the Association desires to enter into a contract is the only source of supply within Collier County.

## **12. MISCELLANEOUS.**

12.1 Gender. Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

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

12.3 Conflict. If there is a conflict between any provision of these Bylaws and the Condominium Act, the Condominium Act shall control. If there is a conflict with respect to the interpretation of these Bylaws and the Declaration of Condominium or Articles of Incorporation, the provisions of the Declaration and the Articles of Incorporation shall prevail over the provisions of these Bylaws.

12.4 Certificate of Compliance. In accordance with Section 718.112(2)(1) of the Condominium Act, a Certificate of Compliance from a licensed electrical contractor or electrician may be accepted by the Board of Directors as evidence of compliance of the Units to the applicable fire and life safety code.

12.5 Limited Power to Convey Portion of Common Elements. In accordance with Section 718.112(2)(m) of the Condominium, the Association shall have a limited power to convey a portion of the Common Elements to a condemning authority for the purpose of providing utility easements, right-of way expansion or other public purposes, whether negotiated or as a result of eminent domain proceedings.