

Prepared by and returned to:

Becker & Poliakoff, P.A.
James Robert Caves, Esquire
12140 Carissa Commerce Court, Suite 200
Fort Myers, FL 33966

CERTIFICATE OF AMENDMENT

**AMENDED AND RESTATED DECLARATION OF RESTRICTIONS,
LIMITATIONS, COVENANTS AND USES
FOR
EAST GREENS CONDOMINIUM**

I HEREBY CERTIFY that the following amendment to the Amended and Restated Declaration of Restrictions, Limitations, Covenants and Uses for East Greens Condominium were duly adopted by the Association membership at the duly noticed Special Members' Meeting of the Association on the 17th day of March 2025. Said amendment was approved by a proper percentage of voting interests of the Association. The original Declaration of Restrictions, Limitations, Covenants and Uses for East Greens Condominium is recorded at O.R. Book 833, Page 632 *et seq.*, of the Public Records of Lee County, Florida. The Amended and Restated Declaration of Restrictions, Limitations, Covenants and Uses for East Greens Condominium is recorded at Instrument No. 2006000003221, of the Public Records of Lee County, Florida.

Additions indicated by underlining.

Deletions indicated by ~~striking through~~.

Amendment: Article 13.3.14, Amended and Restated Declaration of Restrictions, Limitations, Covenants and Uses

13. USE RESTRICTIONS The use of the property of the condominium shall be in accordance with the Rules and Regulations.

(Section 13.1 and Section 13.2 Remain Unchanged)

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13.3 Rules and Regulations The rules and regulations as listed below are hereby made a part hereof by reference concerning the use of the condominium property including the units may be amended from time to time by the Board of Directors. Copies of the regulations and amendments shall be furnished by the Association to all unit owners. No new or amended regulation may be enforced prior to distribution to the owners. Changes in the Rules and Regulations shall not require amendment of this Declaration and may, but need not be, recorded in the Public Records.

(Section 13.3.1 through Section 13.3.13 Remain Unchanged)

13.3.14 Sales or Leasing of Units - All sales and lease agreements of units must be approved in advance by the Board of Directors in writing. A Unit Owner may sell or lease only his entire unit, and then only in accordance with this Section and Procedures.

(Section 13.3.14(A) through Section 13.3.14(E) Remain Unchanged)

(F) Each sale of a unit shall require the owner to own said unit for two (2) consecutive years prior to leasing the unit.

i. Any unit owner shall at their discretion gift, sell or bequest the unit to an immediate family member or leave in a tangible will said property to the heir without having any restrictions in that they can lease their property without section F being applicable. In the event they sell the property thereafter then section F shall apply to any future owners.

(Remainder of Article 13 Remains Unchanged)

WITNESSES (TWO):

Patricia Vealey
 Witness #1 Signature
Patricia Vealey
 Witness #1 Printed Name

7 E. Greens Circle
Lehigh Acres, FL 33936
 Witness #1 Address

Daniel Treutlein
 Witness #2 Signature
Daniel Treutlein
 Witness #2 Printed Name

5 Plaza Court
Lehigh Acres, FL 33936
 Witness #2 Address

~~EAST GREENS CONDOMINIUM, INC.~~

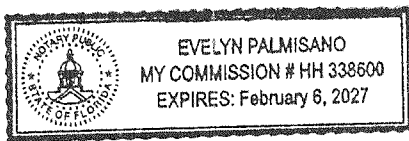
BY: Brian Campbell, President
c/o Management Professionals
530 Construction Lane
Lehigh Acres, FL 33936

Date: 04/07/2025

(CORPORATE SEAL)

STATE OF FL)
) SS:
 COUNTY OF Lee)

The foregoing instrument was acknowledged before me by means of ☒ physical presence or
☐ online notarization this 7th day of April 2025, by Brian Campbell as
 President of East Greens Condominium, Inc., a Florida Corporation, on behalf of the corporation.
 He is ☒ personally known to me or ☐ has produced (type of identification)
 _____ as identification.



Evelyn Palmisano
 Notary Public
EVELYN Palmisano
 Printed Name

My commission expires: 2-6-2027

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LAW OFFICES
 BECKER & POLIAKOFF, P.A.
 SIX MILE CORPORATE PARK • 12140 CARISSA COMMERCE COURT, SUITE 200 • FORT MYERS, FL 33966
 TELEPHONE (239) 433-7707

26390314.v1

Prepared By and Return To:
MICHAEL M. WALLACK, ESQ.
MICHAEL M. WALLACK, CHARTERED
1819 Main Street, Suite 1100
Sarasota, FL 34236

INSTR # 2006000169786, Pages 3
Doc Type DOC, Recorded 04/26/2006 at 11:59 AM.
Charlie Green, Lee County Clerk of Circuit Court
Rec. Fee \$27.00
Deputy Clerk GWAITE
#1

**AMENDMENT TO THE DECLARATION OF CONDOMINIUM
OF
EAST GREENS CONDOMINIUM, INC.
PROVIDING SURVEYOR'S CERTIFICATE AND SURVEY, SITE PLAN AND GRAPHIC
DESCRIPTION EVIDENCING THE SUBSTANTIAL COMPLETION OF CONDOMINIUM
PARCEL NUMBER K, UNIT 1 AND CONDOMINIUM PARCEL NUMBER K, UNIT 2**

THIS AMENDMENT, made and entered into this 30th day of March 2006, by **East Greens Condominium, Inc., a Florida not-for-profit corporation**, (the "Association") with offices located at c/o Landex, 1100 Homestead Rd. N., Lehigh Acres, FL 33936.

WHEREAS, Association is the condominium association for East Greens Condominium (the "Condominium"), a condominium created pursuant to Declaration of Condominium ("Original Declaration") of East Greens Condominium, Inc., a Condominium, as recorded in Official Records Book 833, page 631, as amended, and as described in Condominium Plat Book 2, Page 194, as amended in Condominium Plat Book 8, Pages 1 thru 15, all of the Public Records of Lee County, Florida; said Original Declaration having been further amended by Amended and Restated Declaration of Restrictions, Limitations, Covenants and Uses for East Green Condominium (the "Restated Declaration") recorded the 5th day of January, 2006, in Official Instrument Number 2006000003221 of the Public Records of Lee County, Florida (the Original Declaration as amended and as amended and restated by the Restated Declaration being hereinafter referred to as the Declaration); and

WHEREAS, East Greens Development, LLC, a Florida limited liability company, being the successor developer of Condominium Parcel Number K, Unit 1 and Condominium Parcel Number K, Unit 2 of the Condominium, has requested the Association to enact and approve an amendment to the Declaration providing a Surveyor's Certificate and a Survey, Site Plan and Graphic Description evidencing the substantial completion of Condominium Parcel Number K, Unit 1 and Condominium Parcel Number K, Unit 2 of the Condominium; and

WHEREAS, the Association has determined that it is in the best interests of the Condominium and of the Association to enact and approve the amendment to the Declaration requested by East Greens Development, LLC;

NOW, THEREFORE, the Association hereby amends the Declaration as follows:

1. Recitals. The above recitals are true and correct and are incorporated herein by reference.
2. Amendment. The Declaration shall be and is hereby amended by the inclusion therein of the Surveyor's Certificate and Survey, Site Plan and Graphic Description attached hereto evidencing the substantial completion of Condominium Parcel Number K, Unit 1 and Condominium Parcel Number K, Unit 2 of the Condominium.

3. Authority. The foregoing Amendment was approved at a duly called meeting of the Unit Owners of the Association held on the 30th day of March, 2006, at which a quorum was present, by the affirmative vote of more than two-thirds (2/3) of the Unit Owners present and voting at the meeting, as required by and in accordance with provisions of the Declaration, and specifically Article 25, Section 25.8 of the Restated Declaration. The actual vote was 51 "yes", and zero "no", of 68 units.

IN WITNESS WHEREOF, the Association has caused this Amendment to the Declaration to be executed in its name by its officers duly authorized on the day and year first above written.

In the presence of:

EAST GREENS CONDOMINIUM, INC.,
a Florida not-for-profit corporation

Ruth A. Anglickis
Print Witness Name: RUTH A. ANGLICKIS

By: Markus Roeskens
Markus Roeskens, President

Becky Adame
Print Witness Name: Becky Adame

Attest: Maxine J. Kallio
Maxine J. Kallio, Secretary

State of Florida
County of Lee

The foregoing instrument was acknowledged before me this 30th day of March, 2006, by Markus Roeskens and Anita Mimear, as President and Secretary, respectively, of EAST GREENS CONDOMINIUM, INC., a Florida not-for-profit corporation, who is/are personally known to me.

(Notary Seal)



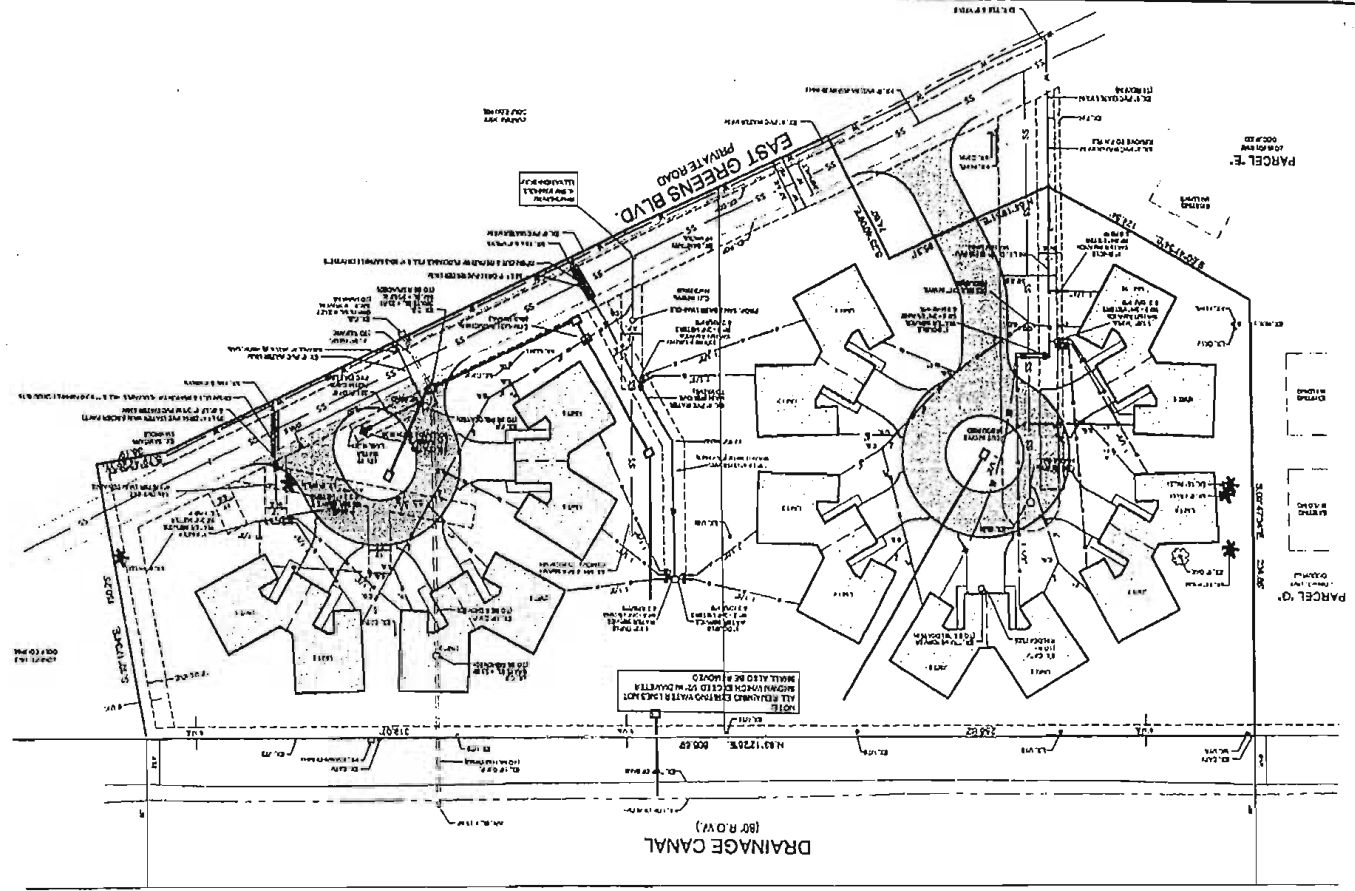
Ruth A. Anglickis
Commission #DD177017
Expires: Feb 19, 2007
Bonded Thru
Atlantic Bonding Co., Inc.

Ruth A. Anglickis
Ruth A. Anglickis
Notary Public, State of Florida, at Large.
Commission Number: DD177017
Date of My Comm. Expires: 2/19/07

SD-5
SHEET
NORTH
DATE: 10/10/00
BY: J. R. ROSS

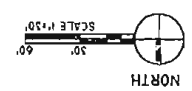
Quattrone & Associates, Inc.
Professional Engineers & Surveyors
11000 West Paces Ferry, Suite 200 - Atlanta, Georgia 30342
Official Professional Seal

**EAST GREENS
UTILITY PLAN**
CAPITAL DEVELOPMENT, INC.
LEHIGH ACRES, FLORIDA



GENERAL NOTES:

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE FLORIDA CONSTRUCTION CODES.
2. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE APPROPRIATE AGENCIES.
3. THE UTILITIES SHOWN ON THIS PLAN ARE BASED ON THE INFORMATION PROVIDED BY THE DEVELOPER AND THE FIELD SURVEY.
4. THE UTILITIES SHOWN ON THIS PLAN ARE NOT TO BE CONSIDERED AS A GUARANTEE OF THE ACCURACY OF THE INFORMATION.
5. THE UTILITIES SHOWN ON THIS PLAN ARE NOT TO BE CONSIDERED AS A GUARANTEE OF THE ACCURACY OF THE INFORMATION.
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10. THE UTILITIES SHOWN ON THIS PLAN ARE NOT TO BE CONSIDERED AS A GUARANTEE OF THE ACCURACY OF THE INFORMATION.



SYMBOL	DESCRIPTION
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(Symbol)	18" SEWER MAIN
(Symbol)	24" SEWER MAIN
(Symbol)	30" SEWER MAIN
(Symbol)	36" SEWER MAIN
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*Prepared By: Christopher N. Davies Esq.
Swalm, Bourgeau & Davies, P.A.
2375 Tamiami Trail N., Suite 308
Naples, FL 34103*

**AMENDED AND RESTATED DECLARATION OF RESTRICTIONS,
LIMITATIONS, COVENANTS AND USES
FOR
EAST GREENS CONDOMINIUM**

The Association, as representative of the owners of units in **East Greens Condominium**, pursuant to the amendment powers contained in the Declaration of Restrictions, Limitations, Covenants and Uses, after proper notice and discussion, and after recommendation and approval by at least two thirds (2/3) of all members, hereby records this Amended and Restated Declaration of Restrictions, Limitations, Covenants and Uses, executed by the President and Secretary of *East Greens Condominium, Inc.*

1. CONFIRMATION OF PRIOR STATEMENT OF CONDOMINIUM SUBMISSION: The owners of units of *East Greens Condominium* do hereby confirm that the land described in the original Declaration of Restrictions, Limitations, Covenants and Uses Establishing a Plan for Condominium Ownership for East Greens Condominium, recorded in Official Records Book 833, page 631, *et seq.*, Public Records of Lee County, Florida, and the improvements located thereon, have already been submitted to condominium ownership pursuant to the Florida Condominium Act. No additional property is being submitted by this Declaration.

2. NAME OF CONDOMINIUM: The Condominium consists of 68 single family residential units and associated improvements designated as *East Greens Condominium*.

3. **NAME OF ASSOCIATION:** The name of the Condominium Association is *East Greens Condominium, Inc.* This Association is incorporated as a not-for-profit Florida corporation.

4. **DEFINITIONS:** The terms used herein shall have the meaning stated in the Florida Condominium Act and as follows, unless the context otherwise requires:

4.1 **ARTICLES** – means the Articles of Incorporation of the Association.

4.2 **ARCHITECTURAL REVIEW BOARD** - means a committee appointed by the Board to exercise the functions delegated to it in connection with the review and approval of architectural plans for improvements to Units, and landscaping in limited and common areas as herein provided.

4.3 **ASSESSMENT** - The share of the funds required for the payment of common expenses which from time to time is assessed against a unit owner and referred to from time to time as the Annual Assessment, Total Assessment, and Special Assessment.

4.4 **ASSOCIATION** – East Greens Condominium, inc., the corporation responsible for the operation of the Condominium.

4.5 **ASSOCIATION PROPERTY**- All property, real or personal, owned by the Association.

4.6 **BOARD OF DIRECTORS OR DIRECTORS OF BOARD** – The Board of Directors is responsible for administration of the Association.

4.7 **BYLAWS** – means the Bylaws of the Association.

4.8 **COMMON AREA ELEMENTS** - The portions of the property submitted to condominium ownership and not included in the units as defined in the Florida Condominium Act including:

4.8.1 The land.

4.8.2 All parts of the improvements which are not included within the units.

4.8.3 Easements and installations for the furnishing of services to more than one unit or to the common elements, such as electricity, water, and sewer.

4.9 **COMMON EXPENSES** - All expenses and assessments properly incurred by the Association for the Condominium and such expenses as may be declared to be common expenses by this Declaration.

4.10 **COMMON SURPLUS** - The excess of all receipts of the Association over the common expenses.

4.11 **CONDOMINIUM DOCUMENTS** - This Declaration and its attached exhibits which set forth the nature of the property rights in the Condominium, and the covenants running with the land which govern these rights. All the condominium documents shall be subject to the provisions of the Declaration and their order of precedence shall be as follows: (1) Declaration; (2) Articles of Incorporation; (3) Bylaws; (4) Rules and Regulations, if any.

4.12 **CONDOMINIUM PARCEL** - A unit together with the undivided share in the common elements which is appurtenant to the unit (1/68 per unit owner).

4.13 **CONDOMINIUM PROPERTY** - The lands and personal property, both tangible and intangible, subject to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant.

4.14 **DECLARATION** - means this Declaration of Restrictions, Limitations, Covenants and Uses Creating and Establishing a Plan for Condominium Ownership, and all exhibits attached hereto, as the same may be amended from time-to-time.

4.15 **ENTRY MONUMENTATION, LANDSCAPING AND SIGNAGE AREAS** - means areas located within County road rights-of-way, East County Water Control District rights of way or

landscape easements which may be located at the entrance, or location signage, landscaping and irrigation systems.

4.16 **FAMILY** - means one natural person or a group of two (2) or more natural persons, not to exceed four (4) persons, each of whom is related to each of the others by blood, marriage, or adoption; or not more than two persons not so related, who reside together as a single non - profit household.

4.17 **GUESTS** - Means any person who is physically present in or occupies a unit on a temporary basis, not to exceed 30 consecutive days in a calendar year, at the invitation of the unit owner without the payment of consideration.

4.18 **INSTITUTIONAL FIRST MORTGAGEE** - Means the mortgagee (or its assignee) of a first mortgage upon a condominium parcel, which mortgage is a bank, savings and loan association, mortgage banker, 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 terms also refer to any holder of a first mortgage against a condominium parcel which mortgage is guaranteed or insured, as evidenced by a recorded instrument by the Federal Housing Administration, the Veterans Administration, any agency of the United States, or by any other public or private corporation engaged in the business of guaranteeing or insuring residential first mortgage loans, and their successors and assigns.

4.19 **LEASE** - Means the grant by a unit owner of a temporary right of use of the owners unit for a valuable consideration, which must be approved by the Board of Directors for not less than sixty (60) days nor more than one (1) year, through an application process.

4.20 **LIMITED COMMON ELEMENTS** - Those portions of the common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

4.21 **OPERATION** - The administration and management of the condominium property.

4.22 **PERSON** - An individual, corporation, trust, or other legal entity capable of holding title to real property.

4.23 **SURFACE WATER MANAGEMENT SYSTEM** – means dry retention areas, control structures and drainage piping which lie outside of the public rights-of-way.

4.24 **VOTING INTEREST** - Means the voting rights distributed to the Association members pursuant to F.S. 718.

5. **ARCHITECTURAL REVIEW BOARD**

5.1 **ARCHITECTURAL REVIEW BOARD** – The Board shall appoint the Architectural Review Board (ARB) consisting of not less than three (3) or more than seven (7) persons, who must be members of the Association. The ARB reports to the Board of Directors for the final approval. A majority of the ARB shall constitute a quorum to transact any business of the ARB, and the action of a majority present at a meeting at which a quorum is present shall determine the action taken by the ARB. The Board of Directors shall have the right to remove any member of the ARB. Any vacancy occurring on the ARB for any reason whatsoever shall be filled by the Board of Directors. The ARB may designate a representative to act on behalf of the ARB, subject to the approval of the Board of Directors. No member of the ARB or any representative of the ARB shall be entitled to any compensation by the Association for services performed hereunder.

5.2. **POWERS AND DUTIES OF THE ARB** – None of the following may be done without the prior written recommendation of the ARB and the Board of Directors:

5.2.1. No improvement or structure of any kind, including, without limitation, any building, garage, paved area, patio, wall, fence, screen enclosure, play equipment or basketball unit, shall be erected, placed or maintained on any Unit, Common Area or Limited Common Area.

5.2.2 No trees shall be cut or moved on any Unit, Common Area or Limited Common Area; and no trimming or removal of any protected plant species on the property.

5.2.3 No addition, alteration, modification or change to any such improvement, structure, shall be made on any Unit, Common Area or Limited Common Area.

5.3 ***PLANS REVIEW*** – Following is the procedure for obtaining approval of the ARB.

5.3.1 Two (2) complete sets of plans and specifications for proposed improvement modification construction and landscaping shall be submitted to the ARB for its review (the "Plans"), and no foundation shall be poured or constructed or landscaping commenced without the prior approval of the ARB and Board of Directors.

5.3.2 The Plans shall include, as appropriate, the proposed location, buffering, grade elevations, shape, dimensions, exterior color plans, and nature, type and color of exterior materials to be used. The ARB may also require the submission of additional information and samples of materials as may be reasonably necessary for the ARB to evaluate the proposed construction, landscaping, or alteration. The Plans shall include a copy of the signed vendor contract including a copy of their workers' compensation and liability insurance.

5.3.3 The ARB shall evaluate all Plans utilizing standards of the highest level as to the aesthetics, materials and workmanship and as to suitability and harmony of location, structures and external design in relation to surrounding topography, structures and landscaping.

5.3.4 Any and all approvals or disapprovals of plans submitted to the ARB by an owner will be done at a duly called Board of Directors meeting. In the event the ARB fails to approve or disapprove in writing any plans within 60 days of receipt of submission to the ARB then the plans shall be deemed approved.

5.3.5 The Board shall promulgate such further rules, regulations and application forms, as it deems necessary or desirable to carry out the purpose of this Section.

5.4 ***NON-LIABILITY OF ARB MEMBERS*** - Neither the ARB nor any member thereof, nor its duly authorized ARB representative, shall be liable to the Association or any Owner or any other person or entity for any loss, damage, or injury arising out of or in any way connected within the performance or non-performance of the ARB's duties hereunder, unless due to the willful misconduct or bad faith of a member, and only that member shall be liable therefore. The ARB shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration, or addition solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and to the Development. The ARB shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

5.5 *ARCHITECTURAL CRITERIA AND BUILDING RESTRICTIONS* –

5.5.1 Residential Building – No building shall be erected, placed or permitted to remain on any Unit other than the (1) Duplex Single-Family Dwelling (with lanai, patio or screened porch) and attached carport or garage.

5.5.2 Exterior Colors – No residential building including the carport, garage, lanai, patio or screened porch shall be painted any color other than the original Board approved colors established at the date of the filing of this document. This provision shall not be amended unless the amendment is approved by an affirmative vote of at least two-thirds (2/3) of the total voting interests.

5.5.3 Additions – Unless otherwise specifically approved by the ARB, no addition, no garage, tool shed or storage room may be constructed separate and apart from the dwelling. Each dwelling shall have either a carport or enclosed garage. Carports may be converted into a garage at the owners' expense after receiving approval of the ARB and the Board of Directors.

5.5.4 Driveways – All dwellings shall have a paved driveway of stable and permanent construction. Any coating, stain, decorative design, or overlay to a driveway must be approved by the ARB and the Board of Directors.

5.5.5 Recreational Facilities – No recreation facilities may be constructed or erected on a Unit Common Area or Limited Common Area. No basketball backboards can be attached to a dwelling or any structure connected to a dwelling.

5.5.6 Antenna - No antenna of any kind shall be placed or erected upon any Unit, Common Area, or Limited Common Area or affixed in any manner to the exterior of any building other than a satellite antenna less than one meter in diameter, an aerial complying with the OTARD height restrictions and designed to receive over-the-air television broadcast, or an antenna designed to receive multi-channel, multi-point distribution service which may be installed only at a location recommended by the ARB and Board of Directors. In approving the installation and location of any antenna the ARB and the Board of Directors shall comply with all applicable laws, whether State or Federal.

5.5.7 BBQ - No Barbeque (charcoal, electric, gas to be used other than outside the unit using current fire code rules and regulations. If charcoal used, dispose of properly, not on grass.

5.5.8 Roofs, Windows, Doors and Hurricane Shutters- Replacement and repair of roofs, shingles, windows, hurricane shutters and doors are hereinafter the responsibility of the unit owner.

5.5.9 Hurricane Shutters – Hurricane shutters may be roll-up only. Construction must be of aluminum or reinforced PVC. Shutters must meet wind requirements of 140 MPH.

5.5.10 Patios, Screened Porches, Lanais – Any patio, screened porch or lanai currently added to the Unit on common element property at the time of filing this Amended and Restated Declaration shall be grandfathered in. Any additional patio, screened porch or lanai may be approved by the Board providing it meets the same common area on the footprint as recorded with the original Declaration. No patio, screened porch, lanai or other addition may be approved by the Board that is added to another area of the Unit, common area or limited common area. These patios, screened porches or lanai's will continue to be paid for and repaired by the Unit owner and are not the responsibility of the Association.

5.5.11 Driveways, sidewalks, carports and garages (not garage door) in need of repair or replacement is at the cost of the Association.

6. **CONDOMINIUM UNITS, BOUNDARIES; AND APPURTENANCES:**

Units shall be constituted as follows:

- 6.1 ***REAL PROPERTY*** – Each unit, together with space within it, and together with all appurtenances thereto shall, for all purposes, constitute a separate parcel of real property which may be owned in fee simple and which may be conveyed, transferred and encumbered in the same manner as any other parcel of real property, independently of all other parts of the property, subject only to the provisions of this Declaration. There are sixty eight (68) separately designated and legally described freehold estates, consisting of all of the land and improvements thereon as described in the Deed recorded in Official Record Book at Page of the Public Records of Lee County, Florida; subject to the reservation of an easement for the purposes hereinafter 1 through 6, both inclusive, 62 lots inclusive.

6.2 **BOUNDARIES** - Each unit shall be bounded as to horizontal boundaries as shown on the surveyor plans, whether the same exist now or are created by construction, settlement or movement of the improvements, or permissible repairs, reconstruction or alterations. Said boundaries are described in the Declaration as originally submitted. In addition, all current patios, screen porches, and lanais that were extended into the Common Area are hereby grandfathered in as part of the original footprint.

6.3 **EXCLUSIVE USE** - Each unit owner shall have the exclusive use of his unit.

6.4 **APPURTENANCES** - The ownership of each unit shall include, and there shall pass as appurtenances thereto whether or not separately described, all of the right, title and interest of a unit owner in the condominium property which shall include but not be limited to:

6.4.1 **COMMON ELEMENTS** - Shall include but not be limited to a 1/68th undivided share of the common elements, street areas, park areas, swales, sidewalks, conduits and street lighting located within the easements areas described in 6.1 and 6.2 above, and are more fully described in the originally recorded Declaration of Condominium .

6.4.2 **EASEMENTS** - for the benefit of the unit.

6.4.3 **PROVIDED, HOWEVER**, that such appurtenances shall be subject to the easements for the benefit of other units and the Association.

6.5 **EASEMENT TO AIR SPACE** - The appurtenances shall include an exclusive easement for the use of the air space occupied by the unit as it exists at any particular time and as it may be altered or reconstructed from time to time, which easements shall be terminated automatically in any air space which is vacated from time to time.

6.6 **CROSS EASEMENTS** - Shall include the following easements from each unit owner to each unit owner and to the Association:

6.6.1 **INGRESS AND EGRESS** - Easements through the common elements for ingress and egress.

6.6.2 **MAINTENANCE, REPAIR AND REPLACEMENT** - Easements through the units and common elements for maintenance, repair and replacement. Such access is to be only during reasonable hours except that access may be had at any time in case of emergency.

6.6.3 **UTILITIES** - Easements through the common areas and units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of services to other units and the common elements.

7. **MAINTENANCE RESPONSIBILITY:**

7.1 **BY THE ASSOCIATION** - The Association shall maintain, repair, and replace at the Association's expense the common elements and:

7.1.1 **STRUCTURAL**. The wiring, piping, duct work, and other mechanical, electrical, or other installations or equipment serving the common elements or more than one unit.

7.1.2 **NEGLIGENCE**. Provided that if the maintenance and repair and replacement of any of the common elements, the items above, his own unit, or other units shall be made necessary because of the negligence, act, or omission of a unit owner, his family, lessees, invitees and guests, it shall be a liability of the unit owner. Such work may be done by the Association at the expense of the unit owner, and cost shall be secured as a charge. The Association is granted an easement for such purposes.

7.1.3 **DAMAGE.** All incidental damage caused to a unit, excluding damage to surface treatments, furnishings, appliances and floor coverings (items covered by written home owner's contents policy, by work done or ordered by the Association shall be promptly repaired by and at the expense of the Association.

7.2 **BY THE UNIT OWNER** - The responsibility of the unit owner shall be as follows:

7.2.1 **LAND CONDOMINIUM.** To maintain, repair, and replace at the owner's expense, all portions of the unit, except the portions to be maintained, repaired, and replaced by the Association. It is understood and acknowledged that the original submittal of *East Greens Condominium* is that of a "land" condominium and the maintenance, repair and replacement responsibility of the dwelling building and all of its mechanical, electrical, plumbing and structural components of the residential buildings is that of the unit owners. The unit owners' responsibility also specifically includes the add-on patio, porch or lanai, roofs and shingles, windows and glass panels, hurricane shutters, doors, screens, frames, hardware, appliances, fixtures, cabinets, switches, air handlers, wiring, piping, duct work, and plumbing serving only the particular unit. Failure of a unit owner to reasonably maintain his unit in accordance with this paragraph shall entitle the Association to perform such preventative or remedial work as may be necessary or advisable in the judgment of the Association at the expense of the unit owner, which expense shall be secured as specific charge upon the unit. Unit owners are also responsible for maintaining all portions and components of the unit including the limited common elements appurtenant thereto, and the interior. If the Board determines in its sole discretion that the unit is not being maintained properly, the Association may perform such work as it deems necessary at the expense of the unit owner, which expense shall be secured as a special charge on the unit.

7.2.2 **ROOFS** - The roofs of all of the residential buildings will be maintained, replaced and repaired by and at the

expense of the unit owners affected thereby. It is recognized that the flat roofs of all forty-four (44) duplexes have either been replaced or will have been contracted to be replaced by the date of recording this Amended and Restated Declaration and paid for as a common expense. Subsequent to the recording of this Amended and Restated Declaration, the maintenance, repair and replacement responsibility of roofs shall be that of the owners. Owners may submit to the ARB and the Board of Directors an application to replace the existing flat roof with a hip roof provided all of the owners of sharing the roof agree. At such time as the six (6) townhouse units require a new roof, such will be an individual expense paid for by all six (6) townhouse owners. The townhouse owners may submit to the ARB and the Board of Directors an application to replace the existing flat roof with a hip roof provided all of the townhouse owners agree. The eighteen (18) newly constructed units shall be responsible for the maintenance, repair and replacement responsibility of their roofs.

7.2.2 EXTERIOR APPEARANCE. A unit owner shall not paint or otherwise decorate or change the appearance of any portion of the building not within the interior walls of the unit or which is visible from the exterior of the unit, unless the written consent of the ARB and the Board of Directors is obtained in advance. (This shall not be construed to require approval for placing appropriate furniture on patios, or lanais, but does include blinds or shutters including, but not limited to hurricane shutters of all types other than those originally installed as part of the construction of the Condominium.)

7.2.3 OWNER ALTERATION OF UNITS RESTRICTED. No owner shall make any alterations in the portions of the improvements which remove any portion thereof or make any additions thereto without the prior written approval of the Board of Directors [after there has been a review by the Architectural Review Board]. The Board shall have the authority to approve the proposed work, disapprove the work (in which event the work shall not be done), or to require modifications to the work and the Board's decision shall be

determinative of the matter. All applicable government agencies must approve and grant permits and the entire expense including subsequent maintenance and restoration must be borne by such owner. The Association may require approval from engineers or other professionals as a prerequisite. Vendors are to have and provide proof of, liability insurance, workers' compensation, occupational licenses and permits. No owner shall do any work which would jeopardize the safety or soundness of the building or impair any easements.

8. **COMMON ELEMENTS:**

8.1 **COMMON ELEMENTS** - The common elements shall be owned by the unit owners in an undivided *1/68th* of the whole per unit.

8.2 **NO PARTITION** - No action for partition of the common elements shall lie.

8.3 **USE** - Each unit owner and the Association shall be entitled to use the common elements in accordance with the purposes for which they are intended, but no such use shall hinder or encroach upon the lawful rights of other unit owners.

8.4 **MATERIAL ALTERATIONS AND ADDITIONS** - Except for changes made by an owner with Association approval, or by the Board of Directors alone, for the integrity of the condominium property, material alteration of or substantial additions to the common elements or to Association property including the purchase, acquisition, sale, conveyance, or mortgaging of such property may be effectuated only by vote of sixty-seven percent (2/3) of the voting interests of the condominium at a meeting called for the purpose. The ARB Board of Directors may grant extension of a lanai, screen porch or patio as long as they are exactly like the ones grandfathered in by this Amended and Restarted Declaration.

9. **FISCAL MANAGEMENT** The fiscal management of the Association including budget, fiscal year (calendar year), charges, assessment,

and collection of assessments shall be as set forth herein and in the Bylaws.

10. **ADMINISTRATION:** The administration of the Condominium shall be by the Board of Directors and its powers and duties shall be as set forth herein and in the Bylaws.
11. **INSURANCE:** Insurance covering the Condominium Property and the Association Property shall be governed by the following provisions:

11.1 ***PURCHASE CUSTODY AND PAYMENT***

11.1.1 **Purchase.** All insurance policies described herein covering portions of the individual units and Condominium Property shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida.

11.1.2 **Approval.** Each insurance policy, the agency and company issuing the policy, and the Insurance Trustee (if appointed) hereinafter described shall be subject to the approval of the Primary Institutional Mortgagee in the first instance.

11.1.3 **Named Insured.** The named insured shall be the Association, individually, and as agent for Owners of Units covered by the policy, without naming them, and as agent for their mortgagees, without naming them. The Unit Owners and their mortgagees shall be deemed additional insured's.

11.1.4 **Custody of Policies and Payment of Proceeds.** All Policies shall provide that payments for losses made by the insurer shall be paid to the Insurance Trustee (if appointed), and all policies and endorsements thereto shall be deposited with the Insurance Trustee (if appointed).

11.1.5 **Copies to Mortgagees.** One copy of each insurance policy, or a certificate evidencing such policy,

and all endorsements thereto, shall be furnished by the Association upon request to each Institutional Mortgagee who holds a mortgage upon a Unit covered by the policy.

11.1.6 *Personal Property and Liability.* Except as specifically provided herein or by the Act, the Association shall not be responsible to Unit Owners to obtain insurance coverage upon their personal property, and all owners are required to obtain contents and liability insurance and for their personal liability and living expenses, and for any other risks not otherwise insured in accordance herewith. All owners are required to obtain their own contents and liability coverage and provide evidence of same to the Association.

11.2 **COVERAGE** - The Association shall use its best efforts to maintain insurance covering the following:

11.2.1 *Casualty.* The Building (including all fixtures, installations, or additions comprising that part of the Building within and without the boundaries of the Units and required by the Act to be insured under the Associations policy(ies) but excluding all furniture, furnishings, or other personal property owned, supplied, or installed by Unit Owners or tenants of Unit Owners) and all Improvements located on the Common Elements from time to time, together with all fixtures, building service equipment, personal property, and supplies constituting the Common Elements or owned by the Association, (collectively the "Insured Property"), shall be insured in an amount not less than 100% of the full insurable replacement value thereof, excluding foundation and excavation costs. Unless otherwise provided by the Florida Condominium Act, as amended from time to time, the Associations responsibility to provide insurance shall not include unit floor coverings, wall coverings, or ceiling coverings and shall not include the following equipment if it is located

within the unit and the unit owner is required to repair or replace such equipment: electrical fixtures, appliances, air conditioners or heating equipment, water heater, or built-in cabinets. Such policies may contain reasonable deductible provisions as determined by the Board of Directors of the Association. Such coverage shall afford protection against:

A. Loss or damage by fire, windstorm and other hazards covered by a standard extended coverage endorsement; and

B. Such other risks as from time to time are customarily covered with respect to buildings and improvements similar to the Insured Property in construction, location, and use, including, but not limited to, vandalism and malicious mischief.

11.2.2 **Liability.** Comprehensive general public liability covering loss or damage resulting from accidents or occurrences on or about or in connection with the Insured Property or adjoining driveways and walkways, or any work, matters, or things related to the Insured property, with such coverage as shall be required by the Board of Directors of the Association, but with combined single limit liability of not less than \$1,000,000.00 for each accident or occurrence, \$300,000.00 per person, and \$100,000.00 property damage, and with a cross liability endorsement to cover liabilities of the Unit Owners as a group to any Unit Owner, and vice versa.

11.2.3 **Workers' Compensation.** Workers' compensation and other mandatory insurance, when applicable. All vendors are required to be licensed and furnish of liability insurance as well as workers' compensation to Association.

11.2.4 **Flood Insurance.** Flood insurance may be required by the Association.

11.2.5 *Fidelity Insurance.* Fidelity insurance, fidelity bonds, covering all directors, officers, employees, and management agents of the Association who control or disburse Association funds, in an amount not less than that set forth in Chapter 718, Florida Statutes.

11.2.6 *Association Property* Appropriate additional policy provisions, policies, or endorsements extending the applicable portions of the coverage described above to all Association Property, where such coverage is available.

11.2.7 *Other Insurance.* Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable. When appropriate and obtainable, each of the foregoing policies shall waive the insurers right to: (i) subrogation against the Association and against the Unit Owners individually and as a group, (ii) to pay only a fraction of any loss in the event of co-insurance or if other insurance carriers have issued coverage upon the same risk, and (iii) avoid liability for a loss that was caused by any act of the Board of Directors of the Association, a member of the Board of Directors of the Association, on one or more unit Owners, or as a result of contractual undertakings. Additionally, each policy shall provide that any insurance trust agreement will be recognized, that the insurance provided shall not be prejudiced by any act or omissions of individual Unit Owners that are not under the control of the Association, and that the policy shall be primary, even if a Unit Owner has other insurance that covers the same loss.

11.3 *PREMIUMS* - Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense. Premiums may be financed in such manner as the Board of Directors deems appropriate.

11.4 **UNIT OWNER** - Each Unit Owner shall obtain and maintain at all times, contents insurance, individual casualty and general liability policies for their personal liability arising in the use of their own Unit and other areas of the Common Elements for which they have exclusive use.

11.5 **SHARE OF PROCEEDS** - All insurance policies obtained by or on behalf of the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Association. Herein to the Insurance Trustee shall be deemed to apply to the Board of Director if it elects to serve such functions. The Insurance Trustee shall not be liable for payment of premiums, nor for the renewal of the sufficiency of policies, nor for the failure to collect any insurance. The duty of the Board of Directors shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Unit Owners and their respective mortgages in the following shares.

11.5.1 **Insured Property.** Proceeds on account of damage to the Insured Property shall be held in undivided shares for each Unit Owner, such shares being the same as the undivided shares in the Common Elements appurtenant to each Unit, provided that if the Insured Property so damaged includes property lying within the boundaries of specific Units, that portion of the proceeds allocable to such property shall be held as if that portion of the Insured Property were Optional Property as described in Paragraph (2) below.

11.5.2 **Optional Property** Proceeds on account of damage solely to Units and/or certain portions or all of the contents thereof not included in the Insured Property (all as determined by the Association in its sole discretion) (collectively the "Optional Property"), if any is collected by reason of optional insurance which the Association elects to carry thereon (as contemplated herein), shall be held for the benefit of Owners of Units

or other portions of the Optional Property damaged in proportion to the cost of repairing the damage suffered by each such affected Owner, which cost and allocation shall be determined in the sole discretion of the Association.

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

11.6 *DISTRIBUTION OF PROCEEDS* - Proceeds of insurance policies received by the Board of Directors shall be distributed to or for the benefit of the beneficial owners thereof in the following manner:

11.6.1 *Expenses of the Trust* - All expenses of the Insurance Trustee shall be first paid or provision shall be made therefore.

11.6.2 *Reconstruction or Repair* If the damaged property for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided herein. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners thereof, remittances to Unit Owners and their mortgagees being payable jointly to them.

11.6.3 *Failure To Reconstruct Or Repair.* If it is determined in the manner elsewhere provided that the damaged property for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be allocated among the beneficial owners as provided in Section 10.6 above, and distributed first to all Institutional Mortgagees in an amount sufficient to

pay off their mortgages, and the balance, if any, to the beneficial owners.

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

11.8 UNIT OWNERS PERSONAL COVERAGE Unless the Association elects otherwise, the insurance purchased by the Association shall not cover claims against an Owner due to accidents occurring within his Unit, nor casualty or theft loss to the contents of an Owners Unit. It shall be the obligation of the individual Unit Owner to purchase and pay for insurance as to all such and other risks not covered by insurance carried by the Association.

11.9 BENEFIT OF MORTGAGEES Certain provisions in this Section 10 entitled "Insurance" are for the benefit of mortgagees of Units and may be enforced by such mortgagees.

12. RECONSTRUCTION OR REPAIR AFTER FIRE OR OTHER CASUALTY:

12.1 DETERMINATION TO RECONSTRUCT OR REPAIR AFTER FIRE OR OTHER CASUALTY

In the event of damage to or destruction of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) as a result of fire or other casualty unless 75% or more of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) is destroyed or substantially damaged and unit Owners owning 100% of the

applicable interests in the Common Elements elect not to proceed with repairs or restoration and a Majority of Institutional Mortgagees approve such election, the Board of Directors shall arrange for the prompt repair and restoration of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) and the Insurance Trustee (if appointed) shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

If 75% or more of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) is substantially damaged or destroyed and if Unit Owners owning 100% of the applicable interests in the Common Elements duly and promptly resolve not to proceed with the repair or restoration thereof and a Majority of Institutional Mortgagees approve such resolution, the Condominium Property will not be repaired and shall be subject to an action for partition instituted by the Association, any Unit Owner, mortgagee or lienor, as if the Condominium Property were owned in common, in which event the net proceeds of insurance resulting from such damage or destruction shall be divided among all the Unit Owners in proportion to their respective interests in the Common Elements (with respect to proceeds held for damage to the Insured Property other than that portion of the Insured Property lying within the Boundaries of the Unit), and among affected Unit Owners in proportion to the damage suffered by each such affected Unit Owner, as determined in the sole discretion of the Association (with respect to proceeds held for damage to the Optional Property, if any, and/or that portion of the Insured Property lying within the boundaries of the Unit); provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such fund all mortgages and liens on his Unit in the order of priority of such mortgages and liens.

Whenever in this Section the words "promptly repair" are used, it shall mean that repairs are to begin not more than sixty (60) days from the date that the Board of Directors receive

notice and inform the Unit Owners that it holds proceeds of insurance on account of such damage or destruction sufficient to pay the estimated cost of such work, or not more than ninety (90) days after the Board of Directors receive notice and inform the Unit Owners that such proceeds of insurance are insufficient to pay the estimated costs of such work.

12.2 PLANS AND SPECIFICATIONS Any reconstruction or repair must be made substantially in accordance with the plans and specifications for the original Improvements and then applicable building and other codes; or if not, then in accordance with the plans and specifications approved by the Board of Directors of the Association and then applicable building and other codes, and if the damaged property which is to be altered is the Building or the Optional Property, by the Owners of not less than 100% of the applicable interests in the Common Elements, as well as the Owners of all Units and other portions of the Optional Property (and their respective mortgagees) the plans for which are to be altered.

12.3 SPECIAL RESPONSIBILITY - If the damage is only to those parts of the Optional Property for which the responsibility of maintenance and repair is that of the respective Unit Owners, then the Unit Owners shall be responsible for all necessary reconstruction and repair, which shall be effected promptly and in accordance with guidelines established by the Board of Directors (unless insurance proceeds are held by the Association with respect thereto by reason of the purchase of optional insurance thereon, in which case the Association shall have the responsibility to reconstruct and repair the damaged Optional Property, provided the respective Unit Owners shall be individually responsible for any amount by which the cost of such repair or reconstruction exceeds the insurance proceeds held for such repair or reconstruction on a Unit by Unit basis, as determined in the sole discretion of the Association). In all other instances, the responsibility for all necessary reconstruction and repair shall be that of the Association.

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

A. *Association - Lesser Damage.* If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is less than \$100,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Board of Directors of the Association; provided, however, that upon request to the Insurance Trustee (if appointed) by an Institutional Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are include in the construction fund, such fund shall be disbursed in the manner provided below for the reconstruction and repair of major damage.

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

C. *Unit Owners.* If there is a balance of insurance proceeds after payment of all costs of reconstruction and repair that are the responsibility of the Association, this balance may be used by the Association to effect repairs to the Optional Property (if not insured or if under-insured), or may be distributed to Owners of the Optional Property who have the responsibility for reconstruction and repair thereof. The distribution shall be in the proportion that the estimated cost of reconstruction and repair of such damage to each

affected Unit Owner bears to the total of such estimated costs to all affected Unit Owners, as determined by the Board; provided, however, that no Unit Owner shall be paid an amount in excess of the estimated costs of repair for his portion of the Optional Property. All proceeds must be used to affect repairs to the Optional Property, and if insufficient to complete such repairs, the Owners shall pay the deficit with respect to their portion of the Optional Property and promptly effect the repairs. Any balance remaining after such repairs have been affected shall be distributed to the affected Unit Owners and their mortgagees jointly as elsewhere herein contemplated.

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

E. *Certificate.* Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by Unit Owners upon Assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be made upon the order of the Association alone or upon the additional approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine whether surplus funds to be distributed are less than the Assessments paid by Owners, nor to determine the payees nor the amounts to be paid. The Insurance Trustee may rely upon a certificate of the Association, made by its Board

of Directors, as to any or all of such matters and stating that the sums to be paid are due and properly payable, and stating the names of the payees and the amounts to be paid.

12.4 ***Assessments*** If the proceeds of the insurance are not sufficient to defray the estimated costs of reconstruction and repair to be effected by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, Assessments shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such Assessments on account of damage to the Insured Property shall be in proportion to all of the Owners' respective shares in the Common Elements, and on account of damage to the Optional Property, in proportion to the cost of repairing the damage suffered by each Owner thereof, as determined by the Association.

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

13. **USE RESTRICTIONS** The use of the property of the condominium shall be in accordance with the Rules and Regulations.

13.1 ***UNITS – RESIDENTIAL USE*** Each Unit shall be used as a single-family residence and for no other purpose. No business or commercial activity shall be conducted in or from any Unit, nor may the address or location of the Unit be publicly advertised as the location of any business or commercial activity. Notwithstanding however, neither the listing on any occupational license nor the listing within any telephone directory of the Unit serving as a business address shall be allowed showing the property being used as for commercial or business purposes. Any Owner may use his/her residence for incidental commercial purposes, so long as (1) property is not used for manufacturing, storage, construction or installation of materials sold or advertised to be sold, whether

retail or wholesale customers; (2) the nature of the business activity does not invite or permit suppliers, customers or vendors to visit or frequent the Unit, even on isolated occasions; (3) the business activity within the Unit is limited to telephone calls and written correspondence in and from the Unit; (4) the business activity is not immoral or illegal; and (5) no employees or contractors, other than those who regularly reside within the Unit may perform any work or other services to the business at the Unit. This restriction shall further not be constructed to prohibit any Owner from maintaining a personal or professional library, from keeping personal, business or professional records in his Unit, or from handling personal, business or professional telephone calls and written correspondence in and from his Unit. Such uses are expressly declared customarily incidental to residential use.

13.2 **LAWFUL USE** All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair upon condominium property shall be the same as the responsibility for the repair and maintenance of the property as expressed earlier in this Declaration.

13.3 **Rules and Regulations** The rules and regulations as listed below are hereby made a part hereof by reference concerning the use of the condominium property including the units may be amended from time to time by the Board of Directors. Copies of the regulations and amendments shall be furnished by the Association to all unit owners. No new or amended regulation may be enforced prior to distribution to the owners. Changes in the Rules and Regulations shall not require amendment of this Declaration and may, but need not be, recorded in the Public Records.

13.3.1 Noise - Condominium unit owners, tenants or guests shall not use or permit the use of the premises in any manner which would be disturbing to or a nuisance to other owners, or in such a way as to be

injurious to the reputation of the condominium complex. This noise ordinance includes common property areas.

13.3.2 Roadways and Parking – Neither unit owners, occupants, nor their guests shall park automobiles or other vehicles on any grassed area within the condominium property. Parking is permitted on paved streets so long as owners driveways are not blocked without their consent, and parking is done on the outside of the cul-de-sac in such a manner that passing room remains for other vehicles, including emergency vehicles. No overnight parking in the street is permitted. Private roadways require 4' flagpoles installed on bicycles. The speed limit within the condominium property is 20 miles per hour. Stop signs must be adhered to.

13.3.3 Pets and Animals – Not more than two (2) commonly accepted household pets such as a dog or cat may be kept in a Unit and Limited Common Area, subject to other reasonable regulation by the Association. All animals shall be leashed (if outdoors), or kept within the Unit and Limited Common Area and shall not be permitted to roam free. The Association may restrict the walking of pets to certain areas. Owners who walk their pets on Association Common Areas must clean up after their pets. Commercial activities involving pets, including without limitation, boarding, breeding, grooming or training, are not allowed. If in the sole opinion of the Board, any pet becomes the source of unreasonable annoyance or a threat to the health, safety and welfare to others, or the Owner of the pet fails or refused to comply with these restrictions, the Owner, upon written notice, shall remove the pet from the community. Pets may not be left unattended or leashed in yards, patios or screened porches. In addition to the foregoing, certain aggressive breeds of dogs and exotic animals as determined by the Board of Directors, including but not limited to, Pit Bulls, Rottweilers,

Dobermans and Chows or exotic hybrid animals shall not be permitted.

13.3.4 Vehicles and Repair – No inoperative licensed or unlicensed car, truck or trailer or other type vehicle will be allowed to remain on any Unit for a period in excess of twenty-four (24) hours. However, this provision shall not apply to any such vehicle which is kept within an enclosed garage. No vehicle repair or oil change is allowed on any Unit.

13.3.5 Maintenance of Exteriors and Signs –The Association shall be responsible for pressure cleaning and painting of the exterior of the Unit as part of its reserve schedule. No garage, yard or estate sales. One small "For Sale" signs may only be placed on the railing in front of a unit. No arm "For Sale" signs are allowed. Open House signs may be put up on the day of the open house with permission from the Board of Directors.

13.3.6 Litter, Trash, Garbage – No garbage, trash, refuse or rubbish shall be deposited, dumped or kept on any Units or Limited Common area except in closed sanitary condition in the garage or utility area. Such containers may be placed on the Unit driveway for pickup at the times and in accordance with the requirements of the franchised or governmental entity providing garbage removal utility service for the property. However, such containers shall be returned to and kept in the enclosed garage or utility area promptly after pickup.

13.3.7 Nuisances – It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on Owner's Unit or Limited Common Area. No Unit shall be used, in whole or in part, for the storage of any property or thing that will cause such Unit, Limited Common Area or Common Area to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall

any substance, thing, or material be kept on any Unit, Limited Common Area or Common Area that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on upon any Unit, Limited Common Area or Common Area nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, nuisance to any person using the property adjacent to the Unit, Limited Common Area or Common Area. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Property.

13.3.8 Trucks, Commercial Vehicles, Motorcycles, Recreational Vehicles, Motor Homes, Mobile Homes, Boats, Campers, Trailers and Other Vehicles –

(A) No commercial vehicle of any kind shall be parked in the community except for construction or service vehicles temporarily present on business. The term “commercial vehicle”, as restricted under this subsection, is defined as meaning all vehicles of any kind whatsoever which, from the viewing the exterior of the vehicles or any portion thereof, shows or tends to show any commercial markings, signs, displays, equipment or otherwise indicates a commercial use.

(B) No boat, trailer, semi-tractor trailer, or house trailer of any kind, camper, mobile home, motor home, bus, truck, camper motorcycle, inoperative or unlicensed motor vehicle of any kind, four-wheeler, ATV, or go-cart may be parked or kept in the community. House trailer, semi-tractor trailer, caper, bus, motor home, mobile home, truck camper maybe permitted to park in the community for loading and unloading purposes only, but not overnight.

(C) No Unit Owner motor vehicles shall be parked anywhere other than in their garage, carport or driveway. No vehicle shall be parked in such a manner that any portion of the vehicle extends into the street. Parking on lawns or landscaped areas is prohibited at any time. Additional guest parking is available at the pool parking area. An owner, occupant or guest vehicle may be parked at the pool overnight for a specific amount of time with special permission from the Board of Directors. No vehicle may be parked in the street overnight.

(D) No motor vehicle shall be used as a domicile or residence, either permanent or temporary.

(E) Passenger automobiles, vans and light pick-up trucks with single rear wheels of no more than 3/4's ton designation, in a presentable condition, and which will fit within the enclosed garage or carport shall be permitted. The term "vans and light pick-up trucks" is defined to mean vehicles with no more than 3/4's ton, rear single wheels or less rated weight carrying capacity.

(F) No one shall be permitted to operate an unlicensed motor vehicle on streets or common area within the community. The term "unlicensed vehicle" shall include, but is not limited to, motorized go-carts, ATV's, four-wheelers, scooters or go-peds, unless permitted by the Board for medical purposes. Golf carts are allowed in the streets, but not on Common Area property without Board approval.

(G) Any vehicles parked in violation of this Section shall be subject to being towed away at the owner's expense and subject to fining.

13.3.9 Party Walls –

(A) General Rules of Law to Apply – Each wall built as a part of the original construction of the Units within

the Association and placed on the dividing line between the Units shall constitute a party wall and, to the extent not inconsistent with the provisions of this article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts of omissions shall apply thereto.

(B) Sharing of Repair and Maintenance – The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

(C) Destruction by Fire or Other Casualty – If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other owner(s) thereafter make use of the wall, they shall contribute to the cost of restoration in proportion to such use. This right of contribution shall be without prejudice to any right to call for a larger contribution under any rule of law regarding liability for negligent or willful acts of omissions.

(D) Weatherproofing – Notwithstanding any other provisions in this article, an Owner who, by negligent or willful acts, causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(E) Mediation and Arbitration – In the event of any dispute arising concerning a party wall, such dispute shall be submitted first to pre-suit mediation as provided in Chapter 720 Florida Statutes and then to arbitration. Each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator. The decision of a majority of all the arbitrators shall bind the parties.

13.3.10. Antennas and Flagpoles – No outside television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission

of radio, telephone or televisions broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any Unit or Limited Common Area or upon any improvements thereon, unless expressly approved in writing by the ARB and Board of Directors, in accordance with 47 C.F.R. Part 1, Subpart S, Section 1.4000, as amended, promulgated under the Federal Telecommunications Act of 1996, as amended from time to time, and in accordance with OTARD rules and regulations. The ARB and Board of Directors shall be empowered to adopt rules governing the types of antennae, restrictions relating to safety, location and maintenance of antennae. The ARB and Board of Directors may adopt and enforce reasonable rules limiting installation of permissible dishes or antennae to side or rear yard locations, not visible from the street or neighboring properties, and integrated with the residence and surrounding landscape, to the extent that reception of an acceptable signal would not be unlawfully impaired by such rules. Antennae shall be installed in compliance with all federal, state and local laws and regulations, including zoning, land-use and building regulations. A flagpole, for display of the American Flag and Service Flags, may be permitted if the ARB and Board of Directors first approves its design and location. An approved flagpole shall not be used to mount an antenna. This provision is intended to protect residents from unreasonable interference with television reception, electronic devices, and the operation of home appliances. No ham radios, CB base stations or other high-powered broadcasting equipment is allowed.

13.3.11 Outdoor Equipment – No above ground swimming pools are permitted. Hot tubs, spas or Jacuzzis are permitted within the enclosed portion of the Unit. Oil tanks, bottled gas tanks and barbeque equipment must be kept in compliance with fire code restrictions.

13.3.12 Lighting - All exterior lighting of structures or landscaping shall be accomplished in accordance with plans approved in writing by the ARB and Board of Directors. Except as may be initially installed or approved by the ARB and Board of Directors, no spotlight, floodlights or similar

high intensity lighting shall be placed or utilized upon any unit which in any way will allow light to be reflected on any other unit or the improvements thereon, or upon any Common Areas or any part thereof, without the approval of the ARB and Board of Directors. Other types of low intensity lighting, including normal and customary Christmas or other holiday decoration, which does not unreasonable disturb owners or occupants of the community, shall be allowed so long as the owner removes the lights and other decorations within fifteen (15) days following the holiday.

13.3.13 Other Rules and Regulations – The Board of Directors may, from time to time, approve additional House Rules, Clubhouse Rules and Pool Rules which must be adhered to by the Unit Owners, occupants, tenants and guests, and which are also subject to fining if violated. Any violations of any Rules and Regulations included in this Declaration are subject to fining.

13.3.14 Sales or Leasing of Units – All sales and lease agreements of units must be approved in advance by the Board of Directors in writing. A Unit Owner may sell or lease only his entire unit, and then only in accordance with this Section and Procedures.

(A) Notice – An owner intending to sell or lease his unit must give to the Board of Directors (or its designee(s)) written notice of such intention at least twenty (20) days prior to the starting date of the proposed transfer, together with the name and address of the proposed transferee and other information about the transferee, or the sale or lease, that the Board may reasonable require.

(B) Failure to Give Notice – Any sale or lease entered into without notice is in violation of the above provisions and shall, at the option of the Board, be treated as a nullity.

(C) Rental or Leasing of Units – No unit may be leased for a lease term of less than sixty (60) days or greater than one (1)

year. No option for the lessee to extend or renew the lease for any additional period shall be permitted without Board approval. 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 allowed. An Owner shall provide the Association with a copy of the lease with the lease application. The Board of Directors, in its sole and exclusive discretions, shall have the right and authority, but not the obligation, to grant hardship exceptions when deemed appropriate.

(D) The Board of Directors shall have the authority to approve all sales or leases, which authority may be delegated to a committee of unit owners. The Board shall have the authority to promulgate or use a uniform sale application and require such other information from the proposed transferees as is appropriate under the circumstances. The Board shall have the right to delegate the screening of proposed transferees to a committee, or a commercial transferee screening concern. As part of the screening, the Association may conduct a background check of the applicant and all proposed occupants. The Association may charge a fee for consideration of sales and lease applications of up to \$100 per application.

(E) Upon receipt of all information and fees required by the Association, the Association shall have the duty to approve or disapprove all sales or leases within thirty (30) days of receipt of such information for approval. All requests for approval not acted upon by the Board within thirty (30) days shall be deemed approved. If the Association disapproves a proposed sale or lease, it may only do so for good cause and the unit owner shall receive a short statement indicating the reason for the disapproval, and the transfer shall not be made. The Association shall have no duty to provide an alternate buyer nor shall it assume any responsibility for the denial of a sale application if any denial is based upon any of the following reasons:

- i. The person seeking approval A(which shall include all proposed occupants) has been convicted of a felony involving violence to persons or property, or a felony demonstrating dishonesty or moral turpitude.
- ii. The application for approval on its face, or the conduct of the applicant, indicates that the person seeking approval intends to conduct himself/herself in a manner inconsistent with the covenants and restrictions applicable to the condominium Association. By way of example, but not limitation, an owner allowing a transferee to take possession of the premises prior to approval by the Association as provided for herein shall constitute a presumption that the applicant's conduct is inconsistent with applicable restrictions.
- iii. The person seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidence by his conduct in other social organizations or associations, or by his conduct in this condominium association, as a tenant, unit owner or occupant of a unit.
- iv. The person seeking approval has failed to provide the information, fees, or appearances required to process the application in a timely manner.
- v. All assessments, fines and other charges against the unit have not been paid in full.
- vi. The proposed occupant makes any material misrepresentation during the application process, which shall justify retroactive disapproval of the application upon discovery of the misrepresentation.

13.4 *Use of the Units* - Use of units is restricted to single family residential purposes only of no more than four (4) permanent occupants. These use restrictions shall not be construed in such a manner as to prohibit a unit owner from maintaining his personal professional library, keeping his personal business or professional records or accounts or handling his personal, business or professional telephone calls or correspondence in and from his unit. Such uses are expressly declared customarily incident to the principal

residential use. In addition, it shall be the duty of the owner or rental agent to notify the Association by letter or telephone of the arrival of a guest or renter, including name(s), permanent address, telephone number and such further information as may, from time to time be required. Failure to notify may result in the guest or renter being denied access to the unit and the use of recreational facilities and amenities. The Association or any unit owner may also bring an action for damages or an injunction, pursuant to F.S. 718, against any tenant or other invitee occupying a unit for failure to comply with the Condominium Act or the condominium documents. When a unit is leased, the tenant shall have all use rights in Condominium Association property and those common elements available for use generally by unit owners and the unit owner shall not have such rights except as a guest.

13.5 *Associations Access to Units* The Association has an irrevocable right of access to the units during reasonable hours when necessary for the purpose of maintenance, repair and replacement of the common elements or of any portion of a unit to be maintained by the Association pursuant to this Declaration or for making emergency repairs which are necessary to prevent damage to the common elements or to another unit or units. The Association's right of access to a unit shall be exercised after reasonable notice to the unit owners, unless such notice is not possible or practical under the circumstances, and with due respect for the occupants' rights to privacy and freedom from unreasonable annoyance, as well as with reasonable precautions to protect the personal property within the unit. The Association encourages unit owners to place a key within the Fire Department lock box. No unit owner shall alter any lock, nor install a new lock, to prevent access when the unit is unoccupied, unless the unit owner provides the Fire Department with a new key.

13.6 *Nuisances Prohibited* Unit owners and their tenants and invitees shall not engage in any practice, exhibit any behavior nor permit any condition to exist that shall, in the judgment of the Board of Directors, with the concurrence of a

Hearing Committee constituted as provided for in the By-Laws for the imposition of fines, constitute a nuisance.

14. **LEASE; CONVEYANCE; DISPOSITION; FINANCING;** The purpose and object of this Section is to maintain a quiet, tranquil, non-transient and single family oriented atmosphere with the residents living in compatible coexistence with other financially responsible persons who are of like mind and acceptable both in character and comportment. This objective is considered to be both important and justified because of the necessity of sharing facilities and because of the large personal financial investment of each owner. Therefore, the lease, conveyance, disposal and financing of the units by owners shall be subject to the following provisions:

14.1 ***Association Approval Required*** No owner may sell, lease, give or dispose of a unit or any interest therein in any manner without the written approval of the Association. The approval shall be a written instrument in recordable form which shall include, without limitation, the nature of the transaction (sale, lease, etc.), the parties to the transaction (sellers, purchasers, etc.), the unit number, the name of the condominium and the Official Record Book and Page numbers in which this Declaration was originally recorded. For all unit transfers of title, the approval must be recorded in the Lee County, Florida Public Records simultaneously with the Deed or other instrument transferring title to the unit. Approvals of leases need not be recorded. Only entire units may be leased. All leases must and shall be deemed to contain the agreement of the lessee(s) to abide by all of the covenants of the condominium and Community Associations' documents and must and shall be deemed to provide that a violation of the documents is a breach and event of default of the lease and grounds for damages, termination and eviction and that the lessee and the owner agree that the Association may proceed directly against such lessee(s) and that the lessee(s) shall be responsible for the Associations costs and expenses, including attorneys fees, at all trial and appellate levels, if such costs and fees are not immediately paid by the lessee(s), the Unit Owner shall pay them and such funds shall be secured as a charge. Each Unit Owner by acceptance of the deed to a unit and by the terms of this declaration appoints the Association as the owner's agent to bring actions in owners name and at owner's expense including injunction,

damages, termination and eviction. The rules and regulations must be provided to the lessee(s) by or on the behalf of the unit owner or agent, at or before the commencement of the lease term.

14.2 Approval Procedure The approval of the Association shall be obtained as follows:

14.2.1 Written Notice. Written notice shall be given the Association by the owner of his intention to sell, transfer in any fashion or encumber his interest. The notice shall include the name and address of the proposed acquirer or lender and a correct and complete copy of the proposed documents to be executed to effectuate the transaction. The Association may require such other and further information as it deems reasonably necessary and may impose a transfer fee not to exceed \$100.00 or as permitted by law from time to time. The Association shall not approve any sale, transfer or lease until such time as all unpaid assessments and all court costs and attorneys fees (if any) incurred by the Association and due and owing for the unit have been paid.

14.2.2 Sale. The Association upon receipt of all the information required above, will either approve the transaction, disapprove for cause, or, except in the case of disapproval for cause, upon the written demand of the owner, furnish an alternate purchaser it approves or the Association may itself elect to purchase, and the owner must sell to such alternate or to the Association upon the same terms set forth in the proposal given the Association or the owner may withdraw his proposed sale. In exercising its power of disapproval the Association must act reasonably and in a fair and non-discriminatory manner and withhold approval only for a reason or reasons rationally related to the protection, preservation and proper operation of the condominium and the purposes as set forth at the beginning of this Section 13. If the Association fails or refuses within the allotted time to notify the owner of either approval or disapproval in writing, or if it fails to provide an alternate purchaser or make an election to purchase the unit itself when required to do so, then the Association shall conclusively be presumed to have approved

the transaction, and the Association shall, upon demand, provide a recordable certificate of approval;

14.2.3 *Closing Date.* The sale shall be closed within 60 days after an alternate purchaser has been furnished or the Association has elected to purchase;

14.2.4 *Notice of Disapproval.* If the Association disapproves the proposed transaction (subject to the qualifications contained in Paragraph 2 regarding a sale) notice of disapproval shall be promptly sent in writing to the owner or interest holder, and the transaction shall not be made. The grounds for disapproval of a transfer or lease may include, but are not limited to, a unit owner

being delinquent in the payment of an assessment at the time the approval is sought.

14.3 *Notice of Suit* An owner shall give notice to the Association of every suit or other proceedings which may affect the title to his unit, such notice to be given immediately after the owner receives knowledge thereof.

14.4 *Judicial Sales* are exempt from this Section.

14.5 *Unapproved Transactions* Any transaction which is not approved pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

15. **COMPLIANCE AND DEFAULT** Each unit owner, each tenant and other invitee shall be governed by, and shall comply with the provisions of the Condominium Act, as amended from time to time, this Declaration, including its exhibits, the Association Articles of Incorporation and the Association By-laws

15.1 *Remedies* Failure to comply shall be grounds for relief, which relief may include, but shall not be limited to, an action to recover damages or injunctive relief or both. Actions may be maintained by the Association or by any unit owner.

15.2 *Costs and Fees* In any such proceeding, including appeals, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorney fees.

15.3 *Owner Complaints* In the event of a complaint by an owner against the Association, the Board of Directors or a member thereof, such owner, prior to the institution of any proceedings, shall give written notice in detail of the complaint by certified mail to the Board of Directors. The Board shall give a substantive response to the complainant, notify the complainant that a legal opinion has been requested, or notify the complainant that advice has been requested from the Bureau of Condominiums. The failure to act within 30 days and to notify the unit owner within 30 days after the action taken precludes the Board from recovering attorney's fees and costs

in any subsequent litigation, administrative proceedings, or arbitration arising out of the complaint. If unresolved, a dispute as defined in F.S. 718 must be arbitrated in mandatory non-binding arbitration proceedings prior to commencing litigation.

15.4 **No Waiver of Rights** The failure of the Association or any owner to enforce any covenant, restriction or other provision of the Condominium Documents shall not constitute a waiver of the right to do so thereafter as to subsequent or other instances.

16. **AMENDMENTS.** Amendments to any of the Condominium Documents shall be in accordance with the following:

16.1 **Requirements** An Amendment may be proposed by the Board of Directors and may be considered at any meeting of the owners, regular or special, of which due notice has been given according to the By-Laws, which notice includes notice of the substance of the proposed amendment. Passage shall be evidenced by a certificate executed in recordable form signed by the President or Vice President of the Association that it has been enacted by the affirmative vote of the required percentage of the voting interests voting in person or by proxy (and which vote may also be evidenced by later written approval of voters not present), and the separate written joinders of mortgagees where required and shall include the recording data identifying the location of the Declaration as originally recorded and which shall become effective when recorded in the public records.

16.2 **Correctory Amendment** Whenever it shall appear that there is a defect, error or omission in any of the Condominium Documents or in order to comply with applicable laws or requirements of government agencies, the amendment may be adopted by the Board of Directors alone;

16.3 **Regular Amendments** Amendment's may be enacted by a favorable vote of the owners of 2/3 % of the voting interests in the Association;

16.4 **Written Agreements** Any approval of unit owners on any matter called for by this Declaration, its Exhibits or any

statute to be taken at a meeting of unit owners is hereby expressly allowed to be taken instead by written agreement, without a meeting (which agreement may be in counter parts), subject to F.S. 718.1 12(2)(d)(4).

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

17.1 ***Agreement*** The Condominium may be caused to be terminated at any time by written agreement of 100% of the owners and mortgagees of the units.

17.2 ***"Very Substantial Damage"*** If the Condominium suffers "very substantial damage" to the extent defined in this declaration, and it is not decided as therein provided that the Condominium will be reconstructed or repaired, the Condominium form of ownership of the property in this Condominium will be terminated.

17.3 ***Certificate of Termination: Termination Trustee*** The termination of the Condominium by either of the foregoing methods shall be evidenced by a Certificate of Termination, executed by the President or Vice-President with the formalities of a deed, and certifying as to the facts effecting the termination. The certificate shall also include the name and address of a Florida financial institution with trust powers, or a licensed Florida attorney, who is designated by the Association to act as Termination Trustee, and shall be signed by the Trustee indicating willingness to serve in that capacity. Termination of the Condominium occurs when a Certificate of Termination meeting the requirements of this Section 16 is recorded in the Public Records of Lee County, Florida. The recording of that Certificate of Termination automatically divests the Association and all unit owners of legal title, and vests legal title in the Termination Trustee named in the Certificate of Termination, to all real and personal property which was formerly the Condominium property or Association property, without need for further conveyance. Beneficial title to the former Condominium property and Association property is owned by the former unit owners as tenants in common, in the same

undivided shares as each owner previously owned in the common elements. Upon termination, each lien encumbering a condominium parcel shall be automatically transferred to the equitable share in the condominium property attributable to the unit encumbered by the lien, with the same priority. Termination incident to a merger of this Condominium with another shall not require designation of a Termination Trustee.

17.4 *Wind up of Association Affairs* The termination of the Condominium does not, by itself, terminate the Association. The former unit owners and their successors and assigns shall continue to be members of the Association, and the members of the Board of Directors and the officers of the Association shall continue to have the powers granted in this Declaration, and in the Articles of Incorporation and Bylaws, including the power to levy assessments, for the purpose of maintaining and protecting the property and winding up the affairs of the Association in accordance with this Section.

17.5 *Trustees Powers and Duties the Termination Trustee* shall hold title to the property for the benefit of the former unit owners and their successors, assigns, heirs, devisees, mortgagees and other lien holders, as their interests shall appear. If the former unit owners approve a sale of the property as provided in this Section, the Termination Trustee shall have the power and authority to convey title to the real property, and to distribute the proceeds in accordance with the provisions of this Declaration. The Termination Trustee shall also have the power and authority to liquidate the assets of the Association upon its dissolution and to distribute the proceeds as described herein. The Termination Trustee shall be entitled to charge a reasonable fee for acting in such capacity, and such fee, and all costs and expenses incurred by the Termination Trustee in the performance of its duties, shall be paid by the Association or taken from the proceeds of the sale of the former condominium and association property, and shall constitute a lien on the property superior to any other lien until paid. The Trustee shall be entitled to indemnification by the Association from any and all liabilities and costs incurred by virtue of acting as Termination Trustee, unless such liabilities are the result of

gross negligence or intentional wrongdoing. The Termination Trustee may rely upon written instructions and information provided by the officers, Directors and agents of the Association, and shall not be required to inquire beyond such information and instructions.

17.6 *Partition: Sale* following termination, the former condominium property and the association property may be partitioned and sold upon the application of any unit owner. If following a termination, at least seventy-five percent (75%) of the voting interests agree to accept an offer for the sale of the property, the Board of Directors shall notify the Termination Trustee, and the Trustee shall complete the transaction. In that event, any action for partition of the property shall be held in abeyance pending the sale, and upon the consummation of the sale shall be discontinued by all parties thereto. If the unit owners have not authorized a sale of the former condominium and association property within one (1) year after the recording of the Certificate of Termination, the Trustee may proceed to sell the property without agreement by the former unit owners. The proceeds of the sale of any of the property or assets of the Association shall be distributed by the Termination Trustee to the beneficial owners thereof, as their interests shall appear.

17.7 *Provisions Survive Termination* The provisions of this Section 17 are covenants running with the land, and shall survive the termination of the Condominium until all matters covered by those provisions have been completed. The Board of Directors shall continue to function in accordance with the Bylaws and Articles of Incorporation, and shall have the power to levy assessments to pay the costs and expenses of maintaining the property until it is sold. The costs of termination, the fees and expenses of the Termination Trustee, as well as post-termination costs of maintaining the former condominium property, are common expenses, the payment of which is secured by a lien on the beneficial interest owned by each former unit owner, which to the maximum extent permitted by law, shall be superior to, and take priority over, all other liens.

18. COLLECTION OF ASSESSMENTS

18.1 *Liability for Assessments* A Unit Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all Assessments coming due while that person is the Unit Owner. In the case of a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor for the share of the Common Expenses up to the time of the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. The liability for assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or by the abandonment of the unit for which the assessments are made or otherwise.

18.2 *Default in Payment of Assessments for Common Expenses*

Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at the highest lawful rate from the date due until paid. The Association has a lien on each condominium Parcel for any unpaid Assessments on such Parcel, with interest and for reasonable attorney's fees and costs incurred by the Association incident to the collection of the Assessment or enforcement of the lien. The lien is effective as of the date of the recording of this Declaration and shall be evidenced by the recording of a claim of lien in the Public Records of the County, stating the description of the Condominium Parcel, the name of the record owner, the amount due and the due dates. The claim of lien shall not be released until all sums secured by it (or such other amount as to which the Association shall agree by way of settlement) have been fully paid or until it is barred by law. The claim of lien shall secure (whether or not stated therein) all unpaid assessments, interest thereon, and costs and attorneys fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a final judgment of foreclosure thereof. A claim of lien shall be signed and acknowledged by an officer or agent of the Association. Upon payment, the person making the payment is entitled to a satisfaction of the lien in recordable form. The Association may bring an action in its name to foreclose a lien for unpaid assessments in the manner a mortgage

of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid assessments without waiving any claim of lien. As an additional right and remedy of the Association, upon default in the payment of assessments as aforesaid and after thirty (30) days' prior written notice to the applicable Unit Owner, the Association may declare the next twelve (12) months of assessment installments to be accelerated (or if acceleration to such extent is prohibited by the Act, then the Association may declare assessments to the maximum extent permitted under the Act to be accelerated) and such shall thereupon be immediately due and payable. In the event that the amount of such installments changes during the period of which assessments were accelerated, the Unit Owner or the Association, as appropriate, shall be obligated to pay or reimburse to the other the amount of increase or decrease within ten (10) days of same taking effect.

18.3 *Appointment of Receiver to Collect Rental* If the Unit Owner remains in possession of the Unit and the claim of lien is foreclosed, the court in its discretion may require the Unit Owner to pay a reasonable rental for the Unit and the Association is entitled to the appointment of a receiver to collect the rent. The expenses of the receiver shall be paid by the party who does not prevail in the foreclosure action.

18.4 *Institutional Mortgagee* In the event an Institutional Mortgagee shall obtain title to the Unit as a result of foreclosure of its mortgage pursuant to proceedings in which the Association has been properly named as a junior lien holder, or as a result of a deed given in lieu of foreclosure or in satisfaction of debt, such Institutional Mortgagee, its successors and assigns, shall be liable for the share of Common Expenses or Assessments or other charges imposed by the Association pertaining to such Condominium Parcel or chargeable to the former Unit Owner of such Condominium Parcel which became due prior to acquisition of title as a result of the foreclosure or the acceptance of such deed; provided, however, the Mortgagees liability is limited to a period not exceeding six (6) months, and in no event shall the First Mortgagees liability exceed one (1%) percent of the original mortgage debt. In any event, the First Mortgagees

liability for such expenses or assessments does not commence until 30 days after the date the First Mortgagee received the last payment of principal or interest. Such unpaid share of Common Expenses or Assessments or other charges shall be deemed to be Common Expenses collectible from all of the Unit Owners, including such acquirer, and such acquirers' successors and assigns.

18.5 *Certificate of Unpaid Assessments* Within fifteen (15) days after request by a Unit Owner or mortgagee of a Unit, the Association shall provide a certificate stating all assessments and other monies owed to the Association by the Unit Owner with respect to their Unit. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby.

18.6 *Installments* Regular Assessments may be collected monthly or quarterly at the option of the Association from time to time.

18.7 *Use of Common Elements* The Association shall not charge any fee against a Unit Owner for the use of the Common Elements or Association Property unless otherwise provided for in this Declaration or by a majority vote of the Association or unless the charges relate to expenses incurred by a Unit Owner having exclusive use of the Common Elements or Association Property.

18.8 *Unpaid Charges* Unpaid charges which are due together with costs, interest and reasonable attorney's fees including appeals for collection shall be the basis for an action at law by the Association against the Unit Owner.

18.9 *Collection - Interest; Administrative Late Fee; Application of Payments* - Assessments paid on or before ten days after the date due shall not bear interest, but all sums not paid on or before ten days shall bear interest at the highest lawful rate from time to time (now 18% per annum) from the date due until paid. In addition to such interest the Association may charge an administrative late fee in an amount not to exceed

the greater of \$15.00 or 5% of each installment of the assessment for which payment is late. All payments upon account shall be first applied to interest, then the late fee, then to any costs and reasonable attorneys fees and then to the assessment payment first due. All interest collected shall be credited to the common expense account.

18.10. ***Collection - Suit*** The Association, at its option, may enforce collection of delinquent assessments by suit at law, by foreclosure of the lien securing the assessments, or by any other remedy available under the laws of the State of Florida, and in any event the Association shall be entitled to recover the payments which are delinquent at the time of collection, judgment or decree, together with those which have become due by acceleration plus interest thereon and all costs incident to the collection and the proceedings, including reasonable attorneys' fees, including appeals. The Association must deliver or mail by certified mail to the unit owner a written notice of its intention to foreclose the assessment lien 30 days before commencing foreclosure, unless Notice of Contest of Lien has been filed. The lien created by F.S. 718 shall secure only assessments, interest, costs and attorney's fees and not fines, charges or other fees.

19. **ASSOCIATION MEMBERSHIP.** The qualification of members and the manner of their admission shall be as provided in the By-laws.

20. **COMMON EXPENSES AND COMMON SURPLUS.** Each units' share of association expenses shall be based on the interior square footage of the individual unit, which includes enclosed lanai's and enclosed garages.

20.1 General – In order for the association to cause the covenants contained in this Declaration to be fulfilled, to maintain and illuminate the rights of way at the Entry Monumentation, Landscaping and Signage Areas, town and maintain the Common Areas, including without limitation the Pool and Clubhouse area, and to effectuate the provisions hereof in the manner contemplated by of this Declaration, the Association will incur certain expenses, which expenses are referred to herein as the "Association Expenses".

20.2 Affirmative Covenant to Pay Association Expenses – Association Expenses shall be paid by the Association from funds assessed and collected from the Owners in the manner set forth in this Declaration, and there is hereby imposed upon each Unit and Owner thereof the affirmative covenant and obligation to pay his respective share of the Association Expenses, which covenant shall run with the land. Each Owner, by acceptance of a deed or other instrument of conveyance, whether or not it shall be so expressed in such deed or instrument, does hereby agree and covenant to pay the share of Association Expenses allocated pursuant to this Declaration to the Unit of such Owner. No Owner shall be relieved of liability for payment of his respective share of Association Expenses by non-use or abandonment of his Unit.

20.3 Interest of Owners – No Owner shall have, during the term of the existence of the Association, any interest, right or claim to any of the funds of the Association or funds received or held by the Association under or pursuant to any Annual Assessment or otherwise.

20.4 Annual Assessment – The Association shall assess each Owner for his respective share of Association Expenses by an Annual Assessment that shall be paid for in twelve (12) equal monthly installments. Annual Assessments for Association Expenses shall be determined as follows: The total anticipated expenses for each fiscal year, including reserves as reasonably estimated by the Board, shall be set forth in a budget adopted by the Board (the "Budget") no later than one month preceding the fiscal year for which the Budget is adopted. The Association Expenses set forth in the Budget, are hereafter referred to as the "Aggregate Annual Assessment". The Annual Aggregate Assessment shall be divided among all the Units., The Annual Assessment allocated to each such Unit as afore described shall be due and payable by the Owner thereof or, if more than one Owner, the Owners, jointly and severally, of each such Unit in monthly installments, in advance, commencing on the first day of the Fiscal Year of the Association. Each monthly installment shall be due on the first day of the month. Any installment of the Annual Assessments which shall not be paid within ten (10)

days after the same become due and payable shall be considered delinquent and shall thereafter bear interest at the rate as provided in the Florida Statutes and/or a late fee as determined by the Board. The Association shall mail to each and every Owner a copy of the Budget specifically indicating the total Association Expenses anticipated for the forthcoming Fiscal Year and the Annual Assessment for such year upon each such Unit.

20.5 Special Assessment – In addition to the Annual Assessment authorized above, the Association may levy against the Owners of Units in the Property, in any maintenance year, a Special Assessment applicable to that year only for the purpose of (1) defraying, in whole or in part, the cost of any unexpected expenditure not anticipated in the annual Budget; (2) the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas; or (3) for the purposes deemed appropriate by the Association, provided that any assessment pursuant to these items shall have the assent of fifty-one percent (51%) of the total votes of Members who are present and voting in person or by proxy at a meeting duly called provided by the resolution adopting such Special Assessment.

20.5.1 A Special Assessment may also be levied in the sole discretion of the Board without Unit Owner approval singularly against any Owner or Owner(s) by the Association for expenses incurred by the Association which are solely attributable to said Owner or Owners and any such Special Assessment shall be due and payable when levied by the Association.

20.5.2 Uniform Special Assessments – Each Unit shall share equally in all Special Assessments except as otherwise provided in this Section of this Declaration.

20.6 Certificate of Payment – The Association shall furnish to any Owner, upon written request, a certificate in writing setting forth the remaining unpaid balance, if any, of any outstanding Annual Assessment or Special Assessment, if any, assessed upon the Unit of such Owner and stating whether such Owner has failed to pay when due any such Annual Assessment or

installment thereof or any such Special Assessment. The Association may charge a reasonable fee for providing the certificate. The Management Company may charge a reasonable fee for providing the certificate to a lender or title company.

20.7 Lien and Personal Obligation – Upon the assessment on a Unit of an Annual Assessment or Special Assessment determined in the manner set forth in this Declaration, such Annual Assessment or Special Assessment, together with interest thereon from the time the same becomes delinquent, at the highest contract rate permitted bylaw, and costs for collection, if any, including court costs and reasonable attorney's fees at trial and appellate levels (the "Total Assessment"), shall be, and are hereby declared to be, a charge and continuing lien on such Unit; provided, however, such lien shall be effective only from and after the time of recording among the Public Records of Lee County, Florida of a claim of lien by the Association setting forth the amount of such lien as of the date of execution of such claim of lien and further provided that such lien shall be subject to the provisions of the Florida Statutes; and further provided that notwithstanding the foregoing, since the Annual Assessment is to be paid in monthly installments, such Annual Assessment shall not constitute a lien unless the monthly installment thereof then due shall not be timely paid in accordance with the provisions hereof. Upon full payment of all amounts secured by the lien, the party making such payment shall be entitled to receive from the Association a satisfaction of lien in form for recording.

The Total Assessment shall also be the personal obligation of the person(s) who is/are the Owner(s) of the Unit at the time the Annual Assessment and Special Assessment fell due. Subject to the protection given Institutional Mortgagees in this Declaration, the obligation for the Total Assessment shall pass to and be assumed by the successors-in-title of such Owner(s).

20.8 Remedies – In the event any Owner fails to pay any Annual assessment installment or Special Assessment within

ten (10) days after the same becomes due and payable (whereupon the same shall be deemed delinquent), then the Board shall have the right to elect on behalf of the Association some or all of the following remedies, which remedies shall not be mutually exclusive, and the election of any one of such remedies shall not be deemed to be a waiver of any other such remedies.

20.8.1 Acceleration – To accelerate the entire amount of any Annual Assessment and/or Special Assessment allocable to the Unit for the remainder of the fiscal year notwithstanding provisions for the payment thereof installments.

20.8.2 Non-Use of Common Area Pool and Clubhouse – The Board may deny use of the Common Area amenities until the Unit Owner is no longer delinquent.

20.8.3 Foreclosure – To file at any time after the effective date of a lien arising under this Declaration, an action to foreclose such lien in like manner as a foreclosure of a mortgage on real property; and

20.8.4 Action at Law – Without waiving any lien rights and rights of foreclosure, to file an action at law against the Owner to collect such unpaid Annual Assessment or Special Assessment, plus interest thereon, at the highest contract rate permitted by law, and costs of collection including court costs and reasonable attorney's fees at trial and appellate levels.

20.9 Institutional Mortgagees – The lien for Annual Assessment and Special Assessment provided for in this Declaration shall be subordinate to the lien of any mortgage on a Unit held by an Institutional Mortgagee that is recorded among the Public Records of Lee County, Florida, prior to the recording of the claim of lien for an Annual Assessment and/or a Special Assessment.

20.10 Exempt Property – The following property subject to this Declaration shall be exempted from the Annual Assessments and Special Assessments created herein; (a) any parcel of property which serves as an easement or which is dedicated and accepted by a local public authority and devoted to public use; and (b) all Common Areas as defined in this Declaration.

21. **CONDEMNATION:**

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

21.2 ***Determination Whether to Continue Condominium*** Whether the condominium will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after a casualty.

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

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

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

21.5.1 *Restoration of Unit.* The unit shall be made tenantable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be paid by the owner of the unit;

21.5.2 *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 owner and mortgagees.

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

21.6.1 *Payment of Award.* The unit immediately prior to the taking, as determined by agreement between the unit owner and the Association or by arbitration in accordance with Section ____?_ following, shall be paid to the owner of the unit and to each mortgagee of the unit, the remittance being made payable jointly to the owner and the mortgagee(s);

21.6.2 *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 the manner approved by the Board of Directors.

21.6.3 *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 and restated to distribute the ownership of the common elements equally among the reduced number of unit owners.

21.6.4 Arbitration. If the insurance value of the unit prior to the taking cannot be determined by agreement between the unit owner and the Association within ninety (90) days after notice by either party, the value shall be determined by appraisal in accordance with the following. The unit owner, the first mortgagee, if any, and the Association shall each appoint one M.A.I. appraiser, who shall appraise the unit and shall determine the fair market value by computing the arithmetic average of their appraisals of the unit. A judgment of specific performance upon the value arrived at by the appraisers may be entered in any court of competent jurisdiction. The cost of appraisals shall be paid by the party selecting the appraiser.

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

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

without the consent of any unit owner or mortgagee being required for any such amendment.

22. **VOTING.** Each unit shall have one full indivisible vote in all matters.

23. **TIME SHARE PROHIBITED.** No time share estates may be created in this condominium.

24. **SEVERABILITY AND NON-WAIVER.** If any provision of this Declaration or its exhibits as now constituted or as later amended or any section, sentence, clause, phrase or word, or the application thereof in any circumstances is held invalid, the validity of the remainder and of the application of any such provision, section, sentence, clause, phrase or word in other circumstances shall not be affected thereby. The failure of the Association in any instance to enforce any covenant or provision of this Declaration or any of the condominium documents shall not constitute a waiver of its right to do so thereafter in other instances.

25. GENERAL PROVISIONS -

25.1 Incorporation of the Land Use Documents – Any and all deeds conveying a Unit shall be conclusively presumed to have incorporated therein all of the terms and conditions of this Declaration.

25.2 Disputes – In the event there is any dispute as to whether the use of the Property complies with the covenants and restrictions contained in this Declaration, such dispute shall be referred to the Board, and the determination rendered by the Board with respect to such dispute shall be binding on all parties.

25.3 Enforcement – The covenants and restrictions contained in this Declaration may be enforced by the Board, the Association, any Owner or Owners and any Institutional Mortgagee in any judicial proceeding seeking any remedy recognizable at law or in equity, including an action or suit seeking damages, injunction, specific performance or any other form of relief, against any person, firm or entity violating or attempting to violate any covenant or restriction here. The failure by any party to enforce any covenant or restriction contained herein shall in no event be

deemed a waiver of such covenant or restriction. The prevailing party in any such litigation shall be entitled to reasonable attorney's fees and court costs at all trial and appellate levels. The Association shall have the right to enforce the covenants in this Declaration.

25.4 Notices to Owners – Any notice or any other communication required or permitted to be given or delivered under this Declaration to any Owner shall be deemed properly given and delivered upon the mailing thereof by United States mail, postage prepaid to the last known address of the person whose name appears on the records of the Association at the time of such mailing. Owners are responsible for notifying the Association of any change of address and all such notices must be in writing.

25.5 Notices to Association – Any notice or other communication required or permitted to be given or delivered under this Declaration to the Association or the ARB shall be deemed properly given and delivered upon the mailing thereof by Certified United States mail, postage prepaid, to the Board or the ARB, at such address as the Board may hereafter designate by notice to Owners in the manner provided in this document.

25.6 Captions – Captions inserted throughout this Document are intended only as a matter of convenience and for reference only and in no way shall such captions or headings define, limit or in any way affect any of the terms or provisions in this Declaration.

25.7 Context – Whenever the context requires, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any noun or pronoun herein may be deemed to mean the corresponding plural form thereof and vice versa.

25.8 Amendment to Restrictions – These covenants and restrictions may be amended by an affirmative vote of two-thirds (2/3) of the voting interests, present and voting, in person

or by proxy, at a members meeting duly noticed by the Board of Directors and called for the purpose. The Amendment shall become effective upon its recording in the Public Records of Lee County, together with a certificate that it has been properly adopted and signed by the President of the Association with the formalities of a deed.

25.9 FHA/VA Approval – The following actions will require notice to the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, mortgaging of common areas, dedication of common areas, mergers and consolidations, and dissolution of Association.

25.10 Severability – In the event any one of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in any way affect any of the other provisions hereof, which shall remain in full force and effect. Without limitation of the foregoing, the invalidation of any of the covenants or restrictions or terms and conditions of this Declaration or a reduction in the term of the same by reason of the legal rule against perpetuities shall in no way affect any other provision which shall remain in full force and effect for such period of time as may be permitted by law.

25.11 Term – This Declaration and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, burdens and liens contained herein, including, without limitation, the provisions for assessments of Units, shall run with and bind the Property and inure to the benefit of, the Association, Owners and their respective legal representatives, heirs, successors and assigns for a term of ninety (90) years from the date hereof, after which time this Declaration shall be automatically renewed and extended for successive periods of ten (10) years each unless at least one (1) year prior to the termination of such ninety (90) year time or to each ten (10) year extension, there is recorded in the Public Records of Lee County, Florida, an instrument agreeing to terminate this Declaration signed by two-thirds (2/3) of the Owners, upon

which event this Declaration shall be terminated upon the expiration of the ninety (90) year term or the ten (10) year extension during which such instrument was recorded, as the case may be.

26. Notwithstanding anything contained herein or in the Articles of Incorporation, Bylaws, any rules and regulations of the Association or any other document governing, binding on or administered by the Association (collectively, the "Association Documents"), the Association shall not be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any owner, occupant or user of any portion of the properties including, without limitation, residents and their families, guests, invitees, agents, servants, contractors or sub-contractors or for any property of any such persons, without limiting the foregoing.

26.1 It is the express intent of the Associations documents that the various provisions thereof which are enforceable by the Association and which govern or regulate the uses of the properties have been written, and are to be interpreted and enforced, for the sole purpose of enhancing and maintaining the enjoyment of the properties and the value thereof;

26.2 The Association is not empowered, and has not been created, to act as an entity which enforces or ensures the compliance with the laws of the United States, State of Florida, Lee County and/or any other jurisdiction or the prevention of tortuous activities.

26.3 Any provisions of the Association documents setting forth the uses of assessments which relate to the health, safety, and/or welfare shall be interpreted and applied only as limitations on the uses of assessment funds and not as creating a duty of the Association to protect or further the health, safety, or welfare of any person(s) even if assessment funds are chosen to be used for any such reason.

26.4 Each owner and each other person having an interest in or lien upon any portion of the properties shall be bound by these disclaimers and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action

against the Association arising from or connected with any matter for which the liability of the Association has been disclaimed herein.

26.5 As used herein "Association" shall include with its meaning all of the Association's directors, officers, committee members, employees, agents, contractors (including management companies), subcontractors, successors or assigns.

THIS AMENDED AND RESTATED DECLARATION OF CONDOMINIUM
and exhibits hereto made and entered into this _____ day of _____,
2005

EAST GREENS CONDOMINIUM, INC.,
a Florida not for profit corporation

By: Anita Miniear

President

Print Name
X Maxine J. Kallio
Secretary
Maxine J Kallio
Print Name

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 15th day of
December, 2005 by MAXINE KALLIO and
ANITA MINIEAR as President and Secretary of **East Greens**
Condominium, Inc., a Florida not for Profit Corporation, on behalf of said
corporation. He is personally known to me.

NOTARY PUBLIC
State of Florida at Large

(Sign) Darlene Williams

(Seal)

(Print) DARLENE Williams



Darlene Williams
Commission # DD258466
Expires October 14, 2007

Bonded Troy Fain - Insurance, Inc. 800-365-7019

Prepared by:
Christopher N. Davies, Esquire
Swalm, Bourgeau & Davies, P.A.
2375 Tamiami Trail N., Suite 308
Naples, FL 34103

CERTIFICATE OF AMENDMENT

THE UNDERSIGNED, being the duly and acting President of East Greens Condominium, Inc., a Florida corporation not for profit, hereby certifies that at a meeting of the members held on December 15th, 2005, where a quorum was present, after due notice, the resolutions set forth below were approved by the vote indicated for the purposes of amending the Declaration of Restrictions, Limitations, Covenants and Uses of East Greens Condominium, a Condominium, as originally recorded at O.R. Book 833, Pages 631 *et seq.*, Public Records of Lee County, Florida, and the Bylaws and Articles of Incorporation of the corporation.

1. The following resolution was approved and adopted by at least two-thirds (2/3rds) of the voting interests present and voting in person or by proxy.

RESOLVED: That the Declaration of Restrictions, Limitations, Covenants and Uses of East Greens Condominium, a Condominium, be and is hereby amended and the amendments are adopted in the form attached hereto, and made a part hereof.

12-15-05
Date

Darlene Williams
Signature of Witness #1

DARLENE WILLIAMS
Print Name of Witness #1

Fred R. Seidel
Signature of Witness #2

FRED R. SEIDEL
Print Name of Witness #2

EAST GREENS CONDOMINIUM, INC.

Anita Miniear

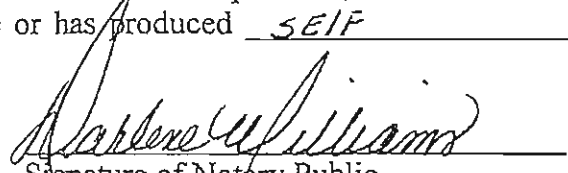
By: Anita Miniear, President

(SEAL)



STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 15th day of December, 2005, by ANITA MINIEAR, President of the aforementioned Corporation, on behalf of the Corporation. He/She is personally known to me or has produced SELF as identification.


Signature of Notary Public

Print Name of Notary Public Darlene Williams
Commission # DD258466
Expires October 14, 2007
(SEAL)  Bonded Troy Feltz - Insurance, Inc. 800-365-7019