

AMENDED AND RESTATED

**DECLARATION OF CONDOMINIUM
FOR
LA TERRAZA II, A CONDOMINIUM**

THIS AMENDED AND RESTATED DECLARATION OF CONDOMINIUM FOR LA TERRAZA II, A CONDOMINIUM, is made this 12th day of March, 2014 by La Terraza II Condominium Association, Inc., a Florida Corporation, for itself and its successors, grantees, and assigns.

WHEREAS, the original Declaration of Condominium for La Terraza II, A Condominium was recorded at Official Records Book 2855, Page 1376 of the Public Records of St. Johns County, Florida;

WHEREAS, pursuant to said Declaration, all properties in La Terraza II shall be held, sold, conveyed, leased, mortgaged and otherwise dealt with subject to the easements, covenants, conditions, restrictions, reservations, liens and charges set forth in the Declaration, which are created in the best interests of the owners, tenants and residents of the Condominium, and which shall run with the Condominium and shall be binding upon all persons having and/or acquiring any right, title or interest in the Condominium or any portion thereof, and shall inure to the benefit of each and every person, from time to time, owing or holding an interest in the Condominium, or any portion thereof;

WHEREAS, the Association's membership desires to substantially amend and restate the Declaration; and

WHEREAS, pursuant to this certificate of amendment this is a substantial rewording of the Declaration and the present text being amended is found at Official Records Book 2855, Page 1376 of the Public Records of St. Johns County, Florida.

NOW, THEREFORE, Association hereby makes, publishes, resubmits, and declares the creation of La Terraza II, a condominium, pursuant to the Condominium Act and subject to the terms, conditions, easements, liens, reservations and other provisions hereinafter set forth.

1. SUBMISSION STATEMENT.

1.1 Submission. The Developer, for itself, its successors, grantees and assigns, has previously submitted to the condominium form of ownership pursuant to the Condominium Act and this Declaration, (a) that property described on the Plat and designated thereon as La Terraza II, (b) together with all improvements erected or to be erected thereon, and (c) all easements, rights and appurtenances belonging thereto, excluding from such submitted property, however, any and all installations, facilities, and devices for Utilities which may be owned by the utility furnishing services to the Condominium.

1.2 Covenants and Acceptance. All of the restrictions, reservations, covenants, conditions, easements and limitations contained herein shall constitute covenants running with the land or equitable servitude on the land, as may be applicable, shall run perpetually unless terminated as provided herein, and shall be binding upon all Owners and those claiming by, through, under and against such Owners. By acceptance of any grant or devise, all grantees or devisees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through, under or against such persons, agree to be bound by the Condominium Documents. Both the benefits provided and the burdens imposed shall run with each Unit and interest in Common Elements.

2. NAME. The name by which this condominium shall be identified is LA TERRAZA II, A CONDOMINIUM, (the "Condominium") and its address is 115 Calle El Jardin, St. Augustine, Florida 32095.

3. THE LAND. The property subject to this Amended and Restated Declaration of Condominium located in St. Johns County, Florida is more particularly set forth in Exhibit "A" attached hereto (the "Condominium Property" or the "Submitted Property").

4. DEFINITIONS. The terms used in the Declaration and its exhibits shall have the meanings stated below and in Chapter 718, Florida Statutes, unless the context otherwise requires. Terms used and not defined herein have the meaning given to them by the Florida Condominium Act.

4.1 "Assessment" means a share of the funds required for the payment of common expenses which from time to time is assessed against the units.

4.2 "Association" means the La Terraza II Condominium Association, Inc., a Florida not for profit corporation, the entity responsible for the operation of this Condominium.

4.3 "Association Property" means all property, real or personal, owned by the Association for the use and benefit of the Unit Owners (as herein defined).

4.4 "Building" means the structures constructed upon the Condominium Property.

4.5 "Board of Directors" or "Board" means the representative body which is responsible for the administration of the Condominium Association's affairs, and is the same body referred to in the Condominium Act as the "Board of Administration." Except for those Directors appointed by the Developer, each Director must be a member or the spouse of a member of the Association.

4.6 "Common Property" means the land declared as such in the Master Declaration.

4.7 "Condominium Documents" means this Declaration and all recorded exhibits hereto, as amended from time to time.

4.8 "Developer" means Crosswinds at Palencia, LLC, a Florida limited liability company and its grantees, successors, and assigns. Developer shall have the right to assign any and all of the rights and privileges reserved for Developer under this Declaration. A Unit Owner (as hereinafter defined), solely by the purchase of a unit, shall not be deemed a successor or assign of Developer or of the rights of Developer under the Condominium Documents or by law unless such Unit Owner (as hereinafter defined) is specifically so designated as a successor or assign of such rights in the instrument of conveyance or any other instrument executed by Developer.

4.9 "Family" or "Single Family" means any one (1) of the following:

(A) One (1) natural person;

(B) Two (2) or more natural persons who commonly reside together as a single housekeeping unit, each of whom is related by blood, marriage, or adoption to each of the others; or

(C) Two (2) or more natural persons meeting the requirements of (B) above, except that there is among them not more than one (1) person who is not related to some or all of the others.

4.10 "Fixtures" means those items of tangible personal property which by being physically annexed or constructively affixed to the unit have become accessory to it and part and parcel of it, including, without limitation, interior partition walls, appliances which have been built in or permanently affixed, and plumbing fixtures in kitchens and bathrooms. Fixtures do not include floor, wall, or ceiling coverings.

4.11 "Guest" means any person (other than the Unit Owner (as hereinafter defined)) and his or her

family) who is physically present in, or occupies a unit on a temporary basis at the invitation of the Unit Owner (as hereinafter defined) or other permitted occupant, without the payment of consideration. "Temporary" means not longer than sixty (60) days in any calendar year.

4.12 "Institutional Mortgagee" shall refer to any one (1) of the following:

(A) A lending institution having a first mortgage lien upon a Unit including any of the following institutions: a federal or state savings and loan, or building and loan association, a bank chartered by a state or federal government, a real estate investment trust, a pension and profit sharing trust, a pension and profit sharing trust, a mortgage company doing business in the state of Florida, or a life insurance company; or

(B) A governmental, quasi-governmental or private company that is engaged in the business of making, purchasing, holding, guaranteeing, or insuring residential mortgages, including, without limitation, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration, and the Department of Urban Development.

4.13 "Lease" means the grant by a Unit Owner (as hereinafter defined) of a temporary right of use of the Unit Owner's (as hereinafter defined) unit for valuable consideration.

4.14 "Limited Common Elements" means those common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

4.15 "Master Declaration" means the Declaration of Covenants, Conditions, Restrictions, Reservations, and Easements for Avila at Palencia, as recorded in the Public records of St. Johns County, Florida at O.R. Book 2344, Page 1971, *et seq.*, and all recorded exhibits thereto, as they have been amended and may be amended from time to time and to which this Declaration of Condominium is subject. Provision is made in the Master Declaration for establishment of and membership in the Avila at Palencia Master Association, Inc. (the "Master Association").

4.16 "Occupant" means a person staying overnight in a unit, when used in connection with a Unit.

4.17 "Private Institutional Mortgagee" means that Institutional Mortgagee which, at the time a determination is made, holds more first mortgages on units in the Condominium than any other Institutional Mortgagee, such determination to be made by reference to the number of units encumbered, and not by the dollar amount of such mortgages.

4.18 "Property Owners Declaration" means the Declaration of Covenants and Restrictions for Palencia, as recorded in the Public Records of St. Johns County, Florida at O.R. Book 1666, Page 807, *et seq.*, and all recorded exhibits thereto, as they have been amended and may be amended from time to time and to which the Declaration of Condominium is subject. Provision is made in the Property Owners Declaration for establishment of the Palencia Property Owners Association of St. Johns County, Inc. (the "Property Owners Association").

4.19 "Rules and Regulations" means the rules and regulations promulgated by the Board of Directors concerning the use of the common elements and the operation of the Association.

4.20 "Unit" means a part of the Condominium Property that is subject to exclusive ownership. Typically, the term Unit refers to that volume of residential living space enclosed by the boundaries of the Unit, as more fully set forth in this Declaration. Where the context may be appropriate, the term Unit shall refer to a Condominium Parcel of which such Unit is a part.

4.21 "Unit Owner" or "Owner" means the same as the term "Unit Owner" as defined in the Condominium Act.

4.22 "Utilities" means electrical power, gas, water (both potable and for irrigation purposes), sanitary sewers, garbage and trash collection and disposal, cable television and other telecommunications services, drainage, telephone and all other public service and convenience facilities.

4.23 "Voting Interests" refers to the arrangement established in the Condominium Documents by which the Owners of each Unit collectively are entitled to one vote in Association matters.

4.24 "Voting Member" means the representative selected by the record Owners of a Unit to be responsible for casting all votes of the Owners as members of the Association.

5. DESCRIPTION OF IMPROVEMENTS: SURVEY AND PLANS

5.1 **Survey and Plot Plans.** Attached to this Declaration as part of Exhibit "B" and incorporated by reference herein, are a survey of the Submitted Property and plot plans, which graphically describe the improvements in which units are located, and which show all the units, including their identification numbers, locations and approximate dimensions and the common elements and limited common elements. Together with this Declaration, the exhibit is in sufficient detail to identify each unit, the common elements and Limited Common Elements, and their relative locations and dimensions.

5.2 **Unit Boundaries.** Each unit shall include that part of the Building that lies within the following boundaries:

- (A) **Upper and Lower Boundaries.** The upper and lower boundaries of the unit shall be the following boundaries extended to their intersections with the perimeter boundaries:
 - (1) **Upper Boundaries.** The horizontal plane of the unfinished lower surface of the ceiling of the unit.
 - (2) **Lower Boundaries.** The horizontal plane of the unfinished upper surface of the concrete floor of the unit.
- (B) **Perimeter Boundaries.** The perimeter boundaries of the unit shall be the vertical planes of the unfinished interior surfaces of the plasterboard or drywall bounding the unit as shown in Exhibit "B" hereto, extended to their intersections with each other and with the upper and lower boundaries.
- (C) **Interior Walls.** No part of the non-structural interior partition walls within a unit (including stucco, framing, and drywall abutting an exterior or interior structural wall) shall be considered part of the boundary of a unit.
- (D) **Apertures.** Where there are openings in any boundary, including, without limitation, windows, doors and skylights, the boundaries of the unit shall extend to the interior unfinished surfaces of the coverings of such openings, and their frameworks thereof. Therefore, windows, doors, screens and all framing, casings and hardware thereof, are excluded from the unit.
- (E) **Utilities.** The unit shall not be deemed to include any pipes, wiring, ducts, or other utility installations that are physically within the above-described boundaries, but which serve other units or the common elements. Such utility installations shall be common elements.

In cases not specifically covered in this Section 5.2, or in any case of conflict or ambiguity, the graphic depictions of the unit boundaries set forth in Exhibit "B" hereto shall control in determining the boundaries of a unit, except Section 5.2(D), above, shall control over Exhibit "B".

6. CONDOMINIUM PARCELS; APPURTENANCES AND USE.

6.1 Shares of Ownership. The Condominium contains nineteen (19) units located within one (1) building, all of which are residential units. The owner of each unit shall also own an undivided one nineteenth (1/19) share of the common elements and the common surplus.

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

- (A) An undivided ownership share in the Condominium Property and other common elements and the common surplus, as specifically set forth in Section 6.1, above.
- (B) Membership and voting rights in the Association, which shall be acquired and exercised as provided in the Articles of Incorporation and Bylaws of the Association, attached hereto as Exhibits "C" and "D," respectively. The members of the Association shall consist of all record title owners in one (1) or more of the units, as more particularly described in said Articles and Bylaws. The members of the Association are entitled to one (1) vote for each residential unit as more particularly described in said Bylaws.
- (C) Membership and voting rights in the Master Association, which shall be acquired and exercised as provided in the Master Declaration.
- (D) The non-exclusive right to use the Common Property.
- (E) The exclusive right to use the Limited Common Elements reserved for the unit, and the non-exclusive right to use the common elements.
- (F) An exclusive easement for the use of the airspace occupied by the unit as it exists at any particular time and as the unit may lawfully be altered or reconstructed from time to time. An easement in airspace which is vacated shall be terminated automatically.
- (G) Other appurtenances as may be provided by law or by this Declaration and its exhibits.

Each unit and its appurtenances constitutes a "condominium parcel."

6.3 Use and Possessions. A Unit Owner is entitled to exclusive use and possession of his or her unit. He or she is entitled to use the common elements and Common Property in accordance with the purpose of which they are intended, but no use may unreasonably interfere with the rights of other Unit Owners or other persons having rights to use the Condominium Property. No unit may be divided or any fractional portion sold, leased, or otherwise transferred. The use of the units, common elements, and Limited Common Elements shall be governed by the Condominium Documents and by the rules and regulations adopted by the Association, through its Board of Directors, as set forth in the Bylaws.

7. COMMON ELEMENTS; EASEMENTS

7.1 Definition. The term "common elements" means all portions of the Condominium Property not included within the units, and includes without limitation the following:

- (A) The Condominium Property;
- (B) All portions of the improvements comprising the Condominium Property not included

within the units, including Limited Common Elements;

(C) Easements through units for conduits, ducts, plumbing, wiring, and other facilities for furnishing utility services to units and the common elements;

(D) An easement of support in every portion of the Condominium which contributes to the support of a building;

(E) The property and installations required for furnishing utilities and other services to more than one (1) unit or to the common elements; and

(F) All easements benefiting and supporting the Condominium Property, including, without limitation, those declared by the Master Declaration.

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

(A) Property Owners Association Easement. The Property Owners Association or its agents shall have the right and easement of ingress and egress, upon and over any portion of the common elements for the purpose of maintaining the Common Areas, including the Surface Water or Stormwater Management System, as those terms are defined in the Property Owners Declaration.

(B) Master Association Easement. The Master Association or its agents shall have the right and easement of ingress and egress, upon and over any portion of the common elements for the purpose of maintaining the Common Property, including without limitation, providing all necessary landscaping and gardening to properly maintain and periodically replace, when necessary, the trees, plants, grass, and other vegetation.

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

(D) Encroachments. If any unit encroaches upon any of the common elements or upon any other unit for any reason other than the intentional act of the Unit Owner, or if any common element encroaches upon any unit, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.

(E) Ingress and Egress. A non-exclusive easement shall exist in favor of each Unit Owner and Occupant, their respective Guests and invitees for pedestrian traffic over, through, and across portions of the common elements as from time to time may be intended and designated for such purpose and use.

(F) Support. Each unit shall have an easement of support and necessity and shall be subject to an easement of support and necessity in favor of all other units and common elements.

7.3 Restraint Upon Separation and Partition. The undivided share of ownership in the common elements and common surplus appurtenant to a unit cannot be conveyed or encumbered separately from the unit and shall pass with the title to the unit, whether or not separately described. No Owner may maintain an action for partition of the common elements. The shares in the funds and assets of the Association cannot be assigned, pledged, or transferred in any manner except as an appurtenance to the units.

8. LIMITED COMMON ELEMENTS

8.1 Description of Limited Common Elements. Certain of the common elements may be designated as Limited Common Elements, reserved for the use of a particular unit or units, to the exclusion of the other units.

(A) Parking Garage Areas. Each residential unit will have as an appurtenance the exclusive use of one (1) private garage located within the ground floor of the Building in which the unit is located. Such parking garage shall be appurtenant to its designated unit and the right to use such parking garage shall pass with title to the unit regardless of whether such parking garage shall be referred to in any such unit deed of conveyance. All parking garages are intended for the primary use of parking and storage of motor vehicles. No designated parking area may be converted to another primary use except with prior approval of the Board of Directors.

(B) Air Conditioning and Heating Equipment. All equipment, fixtures, and installations located outside of a unit, and which furnish air conditioning or heating exclusively to that unit, shall be Limited Common Elements, the exclusive use of which is appurtenant to the unit.

(C) Balconies and Terraces. Any balcony or terrace which is attached or contiguous to a unit and is located within the Condominium property and is part of the Condominium shall be a Limited Common Element, the exclusive use of which is appurtenant to that unit.

(D) Others. Any part of the common elements that is connected to and exclusively serves a single unit, and is specifically required in Section 10 of this Declaration to be maintained, repaired, or replaced by, or at the expense of, the Unit Owner, shall be deemed a Limited Common Element, whether specifically described above or not.

8.2 Exclusive Use. The exclusive right to use a Limited Common Element is an appurtenance to the unit or units to which the Limited Common Element is designated or assigned. The right to such use passes with the unit, whether or not separately described, and cannot be separated from it except by separate assignment. Assigned garage parking may be separated from a unit and assigned to another unit; provided, however, each unit has a parking garage assigned to it. No assignment or a parking garage is valid unless it is first presented to the Association and approval by it in writing, so as to insure that the Association has a record of the parking garage assigned to each unit.

9. ASSOCIATION. The operation of the Condominium is by the La Terraza II Condominium Association, Inc., a Florida not for profit corporation, which shall perform its functions pursuant to the following:

9.1 Articles of Incorporation. A copy of the Articles of Incorporation of the Association is attached as Exhibit "C".

9.2 **Bylaws.** A copy of the Bylaws of the Association is attached as Exhibit "D".

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

9.4 **Membership.** The membership of the Association shall be comprised of Owners of the Units, as further provided by the Bylaws.

9.5 **Acts of the Association.** Unless the approval or affirmative vote of the Unit Owners is specifically made necessary by some provision of the Condominium Act or the Condominium Documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board of Directors, without a vote of the Unit Owners. The officers and Directors of the Association have a fiduciary relationship to the Unit Owners. A Unit Owner does not have the authority to act for the Association by reason of being a Unit Owner.

9.6 **Powers and Duties.** The powers and duties of the Association include those set forth in the Condominium Act, the Florida Not for Profit Corporation Act, and the Condominium Documents. The Association may contact, sue, or be sued with respect to the exercise or non-exercise of its powers and duties. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the Condominium Property and Association Property. The Association may impose reasonable fees for use of common elements or Association Property. The Association has the power to enter into agreements to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities contiguous to the lands of the Condominium, for the use and enjoyment of the Unit Owners.

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

9.8 **Purchase of Units.** The Association has the power to purchase units in the Condominium and to acquire and hold, lease, mortgage, and convey them, such power to be exercised by the Board of Directors.

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

9.10 **Disposition of Property.** Any property owned by the Association, whether real, personal, or mixed, may be mortgaged, sold, or otherwise encumbered or disposed of by the affirmative vote of the Board of Directors, without need for authorization by the Unit Owners.

9.11 **Roster.** The Association shall maintain a current roster of names and mailing addresses of Unit Owners. A copy of the roster shall be made available to any member upon request.

9.12 **Membership in Master Association.** By acceptance of a deed or other instrument conveying title to a unit, an Owner becomes a member in the Master Association.

10. ASSESSMENTS AND LIENS. The Association has the power to levy and collect Assessments against each unit, together with the undivided share in the common elements appurtenant to the unit, in order to provide the necessary funds for property operation and management of the Condominium and for the operation of the Association, including regular Assessments for each unit's share of the common expenses as set forth in the annual budget, and special assessments for unusual, non-recurring or unbudgeted common expenses. The Association may also levy special charges against any individual unit for any amounts other than common expenses which are properly chargeable against such unit under this Declaration or the Bylaws. Assessments shall be levied and payment enforced as provided in the Bylaws and as follows:

10.1 Common Expenses. Common expenses include all expenses of the operation, maintenance, repair, replacement and protection of the common elements and Association Property, the expenses of operating the Association, and any other expense properly incurred by the Association for the Condominium, including the Association's share of the cost of maintenance, upkeep, insurance and repair and replacement of the Common Property, and any amounts budgeted for the purpose of funding reserve accounts.

10.2 Share of Common Expenses. The Owner of each unit shall be liable for a share of the common expenses of the Association equal to his or her share of ownership of the common elements and the common surplus, as set forth in Section 6.1, above.

10.3 Ownership. Assessments collected by or on behalf of the Association become the property of the Association. No Unit Owner has the right to claim, assign, or transfer any interest therein except as an appurtenance to his or her unit. No Owner has the right to withdraw or receive distribution of his or her share of the common surplus, except as otherwise provided herein or by the law.

10.4 Who is Liable for Assessments. The Owner of each unit shall be liable for a share of the common expenses of the Association. No Unit Owner has the right to claim, assign, or transfer any interest therein except as an appurtenance to his or her unit. No Owner has the right to withdraw or receive distribution of his or her share of the common surplus, except as otherwise provided herein or by law.

10.5 No Waiver or Excuse from Payment. The liability for Assessments may not be avoided or abated by waiver of the use or enjoyment of any common elements, by abandonment of the unit for which the Assessments are made, or by interruption in the availability of the unit or the common elements for any reason whatsoever. No Unit Owner may be excused from payment of his or her share of the common expenses unless all Unit Owners are likewise proportionately excused from payment, except as provided in Section 20.3, below, as to certain first mortgages, and in Section 10.12 and 10.13, below, as to the Developer. Nothing herein shall be construed to prevent the Association from compromising or settling a claim for past due Assessments for less than full payment, if the Board determines that such action is in the best interests of the Association.

10.6 Application of Payments; Failure to Pay; Interest; Late Fees. Assessments and installments thereon paid on or before ten (10) days after the due date shall not bear interest, but all sums not so paid shall bear interest at the highest rate allowed by law, until paid. Assessments and installments thereon shall become due, and the Unit Owner shall become liable for said Assessments or installments, on the date established in the Bylaws or otherwise set by the Association for payment. The Association shall also charge an administrative late fee not to exceed the greater of Twenty-Five Dollars (\$25.00) or five percent (5%) of each installment of the assessment for each delinquent installment that the payment is late, unless a higher amount is allowable by law. All payments on account shall be applied first to interest, then to late payment fees and attorney's fees, and costs and finally to unpaid Assessments, in such manner as determined by law. No payment by check is deemed received until the check has cleared.

10.7 Acceleration. If any special assessment or quarterly installment as to a unit becomes more than thirty (30) days past due and a claim of lien is recorded, the Association shall have the right to accelerate the due date of the entire unpaid balance of the unit's annual Assessment and all special assessments for that fiscal year.

as if said balance had originally been due on the date the claim of lien was recorded. The Association's claim of lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, late fees, and attorney fees and costs as provided by law, and said claim of lien shall not be satisfied or released until all sums secured by it have been paid. The right to accelerate shall be exercised by sending to the delinquent Owner a notice of the exercise, which notice shall be sent by certified or registered mail to the Owner's last known address, and shall be deemed given upon mailing of the notice, postpaid. The notice may be given as part of the notice of intent to foreclose required by Section 718.116 of the Condominium Act, or may be sent separately.

10.8 Liens. The Association has a lien on each condominium parcel securing payment of past due Assessments, including interest, late fees and reasonable attorney fees and costs incurred by the Association incident to the collection of the Assessment or enforcement of the lien, whether before, during or after a lien foreclosure suit. The lien is perfected upon recording a claim of lien in the public records of St. Johns County, Florida, stating the description of the condominium parcel, the name of the record Owner, the name and address of the Association, the Assessments past due and the due dates. The claim of lien secures all unpaid Assessments which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a judgment of foreclosure, as well as the interest, late fees, and all reasonable costs and attorney fees incurred by the Association incident to the collection process. Upon full payment, the person making the payment is entitled to a satisfaction of the lien.

10.9 Priority of Lien; Liability for Unpaid Amounts. The Association's lien shall attach and relate back to such time as is provided in the Condominium Act, except as otherwise provided by law, the Association's lien for unpaid Assessments is subordinate and inferior to the lien of any recorded first mortgage, unless the Association's Claim of Lien was recorded before the mortgage. The Association's lien is superior to, and takes priority over, any other mortgage or lien regardless of when the mortgage or lien was recorded. Any Lease of a Unit is subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed.

(A) A Unit Owner, regardless of how his or her title has been acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, is liable for all Assessments and/or special assessments which come due while he or she is the Unit Owner. Additionally, a Unit Owner is jointly and severally liable with the previous owner for all unpaid Assessments, special assessments, late fees, costs, interest, and attorneys fees that came due up to the time of transfer of title of the Unit. This liability is without prejudice to any right the owner may have to recover from the previous owner the amounts paid by the Unit Owner.

(B) Nothing herein contained shall be construed as releasing an Institutional Mortgagee or other purchaser who acquires title to a Unit by foreclosure or deed in lieu of foreclosure from responsibility (a) for payment of that Unit's share of Common Expenses and Assessments accruing during such Lender's or purchaser's ownership of the Unit, whether the Unit is occupied or unoccupied, and (b) for payment of unpaid assessments and common expenses that became due prior to its receipt of the deed and acquisition of title to the Unit, as however limited in amount and prior time period by the provisions of Section 718.116(1), Florida Statutes, as amended from time to time.

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

10.11 Certificate of Assessments. Within fifteen (15) days after request by a Unit Owner, unit purchaser or mortgagee, the Association shall provide a certificate stating whether all Assessments and other monies owed to the Association by the Unit Owner with respect to the condominium parcel have been paid. Any person other than the owner who relies upon such certificate shall be protected thereby. The Association, either through its own

officers, management, or an authorized representative, may charge a fee not to exceed \$250.00 for the preparation and providing of such a certificate.

11. MAINTENANCE; LIMITATION UPON ALTERATIONS AND IMPROVEMENTS. Responsibility for the protection, maintenance, repair, and replacement of the Condominium Property, and restrictions on its alteration and improvement shall be as follows:

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

- (A) Electrical wiring up to the circuit breaker panel in each Unit;
- (B) Water pipes, up to the individual unit cut-off valve inside the Unit;
- (C) Cable television lines up to the wall outlets in the Units;
- (D) Air conditioning condensation drains lines, up to the point where the individual Unit drain lines cuts off;
- (E) Sewer lines, up to the point where the sewer lines enter the individual Units;
- (F) All installations, fixtures, and equipment located within one (1) Unit but serving another unit, or located outside the Unit, for the furnishing of utilities to more than one (1) unit or the common elements;
- (G) The exterior surface of the main entrance doors to the Units; and
- (H) All exterior building walls, including painting, waterproofing, and caulking.

The Association's responsibility does not include interior wall switches or receptacles, plumbing fixtures, or other electrical, plumbing or mechanical installations located within a Unit and serving only that Unit. All incidental damage caused to a Unit or Limited Common Elements by work performed or ordered to be performed by the Association shall be promptly repaired by and at the expense of the Association, which shall restore the property as nearly as practical to its condition before the damage, and the cost shall be a common expense, except the Association shall not be responsible for the damage to any alteration or addition to the common elements made by a Unit Owner or his or her predecessor in title.

11.2 Unit Owner Maintenance. Each Unit Owner is responsible, at his or her own expense, for all maintenance, repairs, and replacements of his or her own Unit and certain Limited Common Elements. The owner's responsibilities include, without limitation:

- (A) Maintenance, repair, replacement, and cleaning of screens, windows, and window glass;
- (B) All doors to the Unit and all decorations, walls and other interior improvements, equipment and fixtures within the Unit and its interior surfaces;
- (C) The electrical, mechanical, and plumbing fixtures, switches, valves, drains, and outlets (including connections) located partially or entirely within the Unit and serving only the Unit, except those which are expressly made the Association's responsibility elsewhere in this Section

11;

(D) The circuit breaker panels located inside the Unit and all electrical wiring into the Unit from the panels;

(E) Appliances, water heaters, smoke alarms, and vent fans;

(F) Except as provided in Section 11.4, below, all air conditioning, and heating equipment, thermostats, ducts, and installations serving each Unit exclusively;

(G) Carpeting and other floor coverings;

(H) Door and window hardware and locks;

(I) Shower pans;

(J) The main water supply shut-off valve for the Unit;

(K) All interior, partition walls which do not form part of the boundary of the unit;

(L) Cleaning and routine maintenance of balconies and terraces;

(M) Cleaning and routine maintenance of parking garages; and

(N) Maintenance and replacement of parking garage doors.

11.3 Other Unit Owner Responsibilities:

(A) Balconies and Terraces. No balconies or terraces may be modified, carpeted, covered or enclosed in any way without the prior written approval of the Board of Directors. Maintenance, repair and replacement of screening and sliding glass doors are the responsibility of the Owner. The Association is responsible for the maintenance, repair and replacement of all exterior walls of the Buildings and the concrete slabs.

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

(C) Flooring. The floors of a Unit shall be covered with carpeting installed over high quality padding, or, if an Owner desires to install in place of carpeting any hard-surface floor covering (e.g. marble, slate, ceramic tile, parquet, hardwood, etc.), the hard-surface floor covering shall be installed over sound absorbent underlayment of such kind and quality as to equal or exceed the sound transmission inhibiting properties of a 1/4" cork underlayment to substantially reduce the transmission of noise to adjoining Units. If the installation is made without the required underlayment, the Board may, in addition to exercising all the other remedies provided in this Declaration, require the Unit Owner to cover all such hard-surface flooring with carpeting, or require the removal of such hard-surface flooring at the expense of the offending Unit Owner.

(D) Window Coverings. The covering and appearance of windows and doors, whether by draperies, shades, reflective film, or other items, whether installed within or outside of the unit, visible from the exterior of the unit, shall be subject to the rules and regulations of the Condominium, Master and Property Owners Association.

(E) Modifications and Alterations. If a Unit Owner makes any modifications, installations, or additions to his or her Unit, any appurtenant Limited Common Element, or the common elements, the Unit Owner, and his or her successors in title, shall be financially responsible for the insurance, maintenance, repair, and replacement of the modifications, installations or additions, as well as the costs of repairing any damage to the common elements or other Units resulting from the existence of such modifications, installations or additions, and the costs of removing and replacing or reinstalling such modifications if their removal by the Association becomes necessary in order to maintain, repair, replace, or protect other part of the Condominium Property. In the event of conflict, the provisions of this paragraph shall prevail over the provisions of Section 11.1, above.

(F) Use of Licensed and Insured Contractors. Whenever a Unit Owner contracts for maintenance, repair, replacement, alteration, addition or improvement of any portion of the unit or common elements, whether with or without Association approval, such Unit Owner shall be deemed to have warranted to the Association and its members that his or her contractor(s) are properly licensed and fully insured, and that the Unit Owner will be financially responsible for any resulting damage to persons or property not paid by the contractor's insurance.

(G) Duty to Report. Each Unit Owner shall promptly report to the Association or its agents any defect or need for repairs to the Condominium Property or Association Property, the remedying of which is the responsibility of the Association.

11.4 Appliance Maintenance Contracts. If there shall become available to the Association a program of contract maintenance for kitchen appliances or water heaters within Units and/or air-conditioning compressors and/or air handlers serving individual units, which the Association determines is to the benefit of the owner to consider, then upon agreement by a majority of the voting interests in writing, the Association may enter into such contractual undertakings. The costs of such contractual undertakings to the Association shall be common expenses. All maintenance, repairs, and replacements not covered by the contracts shall be the responsibility of the Unit Owner.

11.5 Alterations of Units, Limited Common Elements by Unit Owners. No Owner shall make, or permit the making of, any material alterations or substantial additions to his or her Unit, Limited Common Elements or common elements, or in any manner change the exterior appearance of any portion of the Condominium, without first obtaining the written approval of the Board of Directors, which approval may be denied if the Board of Directors determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to, the Condominium in part or in whole. Any door, glass, screen, curtain, blind, shutter, awning, or other modification, additions or installations which may be installed where visible from outside the Unit, are subject to regulations by the Board of Directors. The Board of Directors may revoke or rescind any approval of an alteration or modification previously given, if it appears that the installation has had unanticipated, adverse effects of the Condominium. Prior to undertaking any alteration, Owners must also obtain the necessary approval as stated in the Master Association and Property Owners Association documents.

11.6 Alterations and Additions to Common Elements and Association Property. Except as otherwise provided herein, the protection, maintenance, repair, insurance, and replacement of the common elements and Association Property is the responsibility of the Association and the cost is a common expense. Beyond this function, the Association shall make no material alteration of, nor substantial additions to, the common elements or the real property owned by the Association costing more than \$20,000.00 in the aggregate in any calendar year without prior approval of at least a majority of the voting interests. Alterations or additions costing less than this amount may be made with Board approval. If work reasonably necessary to protect, maintain, repair, replace or insure the common elements or Association Property also constitutes a material alteration or substantial addition to the common elements, no prior Unit Owner approval is required. Prior to undertaking any alteration, the Association must also obtain the necessary approval as stated in the Master Association and Property Owners Association

documents.

11.7 Enforcement of Maintenance. If after reasonable notice the Unit Owner fails to maintain the Unit or its appurtenant Limited Common Elements as required above, the Association may institute legal proceedings to enforce compliance, or may take any other lawful actions to remedy such violation. Notwithstanding the above, the Association has the irrevocable right of access to each Unit during reasonable hours, when necessary for maintenance, repair or replacement of any common elements or of any portion of a Unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the common element of a Unit or Units. Any expenses incurred by the Association in performing work within the Unit as authorized by this Declaration shall be charged to the Unit Owner, together with reasonable attorney's fees and other expenses or collection, if any.

11.8 Negligence; Damage Cause by Condition in Unit. Each Unit Owner shall be liable for the expenses of any maintenance, repair or replacement of common elements, other Units, or personal property made necessary by his or her act or negligence, or by that of any member of his or her family or his or her Guests, employees, agents, or tenants. Each Unit Owner has a duty to maintain his or her Unit, any Limited Common Element appurtenant to the Unit (except those Limited Common Elements required to be maintained by the Association, as provided in Section 11.1, above), and personal property therein, in such a manner as to prevent foreseeable and reasonably preventable damage to other units, the common elements or the property of other Owners and residents. If any condition, defect or malfunction, resulting from the Unit Owner's failure to perform this duty causes damage to other units, the common elements, Association Property, or property within other units, the Owner of the offending unit shall be liable to the person or entity responsible for repairing the damaged property for all costs of repair or replacement not paid by insurance. If one (1) or more of the units involved is not occupied at the time the damage is discovered, the Association may enter the unit without prior notice to the Owner and take reasonable action to mitigate damage or prevent its spread. The Association may, but it not obligated to, repair the damage with the prior consent of the Owner. Nothing herein contained shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

11.9 Association's Access to Units. The Association has an irrevocable right of access to the units for the purposes of maintaining, repairing, and replacing the common elements or portions of a unit to be maintained by the Association under this Declaration, and as necessary to prevent damage to one (1) or more units. The Association's right to access includes, without limitation, entry for purposes of pest control and preventive maintenance of safety equipment, as well as the right, but not the duty, to enter under circumstances where the health or safety of residents may be endangered. The exercise of the Association's rights of access to the Unit shall be accomplished with due respect for the rights of occupants to privacy and freedom from unreasonable annoyance, as well as with appropriate precautions to protect the personal property within the Unit. The Association may retain a pass-key to all units. If it does, no Unit Owner shall alter any lock, nor install a new lock, which prevents access when the Unit is unoccupied, unless the Unit Owner provides a key to the Association. If the Association is not given a key, the Unit Owner shall pay all costs incurred by the Association in gaining entrance to the Unit as well as all damage to his or her Unit caused by gaining entrance thereto, and all damage resulting from delay in gaining entrance to his or her Unit caused by the non-availability of a key.

11.10 Pest Control. The Association may supply pest control services for the inside of each Unit, with the cost being part of the common expenses. A Unit Owner has the option to decline service unless the Association determines that service is necessary for the protection of the Condominium or Building as a whole, in which case the Owner must either permit the Association's pest control company to enter the Unit, or must employ a licensed pest control company to perform the required pest control services and furnish written evidence to the Association that such treatment has occurred. Because the cost of pest control service provided by the Association is a common expense, the election of an Owner not to use the service shall not reduce the Owner's Assessments.

11.11 Conformity with Master Declaration and Property Owners Declaration. Notwithstanding

anything in this Section 11 to the contrary, alterations, improvements, repairs, and maintenance of the Condominium Property shall conform to the provisions of the Master Declaration and to the provisions of the Property Owners Declaration, except where the provisions herein are more restrictive.

11.12 Combining Units. Nothing in this Declaration shall be construed as prohibiting the Board of Directors from authorizing the removal of any party wall between two (2) or more Units to allow them to be used together as one (1) Unit. In that event, all Assessments, voting rights and the share of common elements shall be calculated as the Units were originally designated on the exhibits attached to the original Declaration, notwithstanding the fact that several Units are used as one (1), to the intent and purpose that the Owner of such combined Units shall be treated as the Owner of as many Units as have been so combined.

11.13 Balcony or Terrace Modification and/or Enclosure. A Unit Owner may not modify, screen or enclose the balcony or terrace that adjoins his or her Unit.

11.14 Hurricane Shutters. Notwithstanding any provision set forth hereinabove to the contrary, the Board of Directors, in concert with and subject to the approval of the Master and Property Owners Associations, may adopt and approve a model, style and color of hurricane shutter as a standard hurricane shutter for use in the Condominium. No hurricane shutter except of the standard model, color and style adopted by the Board of Directors shall be used in or upon the Condominium. All specifications adopted by the Board shall comply with the applicable building code. Notwithstanding any provision in the Condominium Documents to the contrary, the Board shall not refuse to approve the installation or replacement of hurricane shutters conforming to the specifications adopted by the Board.

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

12. Units. Units shall at all times be occupied as a residence and for no other purpose. No business, commercial activity or profession may be conducted from any Unit. The use of a Unit as a public lodging establishment shall be deemed a business or commercial use. This restriction shall not be construed to prohibit any Owner from maintaining a personal or professional library, from keeping personal, business or professional records in the Unit, or from handling personal, business or professional telephone calls or written correspondence in and from the Unit. Such uses are expressly declared customarily incident to residential use.

12.2 Minors. There is no restriction on the age of Occupants of Units. All Occupants under eighteen (18) years of age must be closely supervised by an adult to ensure that they do not become a source of annoyance to other residents.

12.3 Pets. No animal or pets may be kept in any unit or brought upon the Condominium Property other than dogs, cats, birds, or fish; provided, however, that there shall not be kept or permitted in any Unit more than a total of two (2) dogs and/or cats. Any Unit Owner who keeps a pet, or permits a pet to be kept in his or her Unit, shall be liable for all damages or injury to persons or property caused by such pet. The ability to keep pets is a privilege, not a right, and the Board of Directors is empowered to adopt rules concerning pet size and type and rules of behavior and to order and enforce the removal of any pet which becomes a source of unreasonable annoyance or causes disturbance or fear to other residents of the Condominium. Pets must be leashed or carried under the owner's arm at all times while on the Condominium Property outside the Unit, and the pet owner shall immediately remove any animal droppings left by such owner's pet upon the common elements. Guests and tenants are not permitted to have pets. The Association may establish and enforce fines for violations of this provision.

12.4 Nuisances. No Unit Owner shall use his or her Unit, or permit it to be used, in any manner that is disturbing, detrimental or a nuisance to the occupants of another Unit, or which would not be consistent with the maintenance of the highest standards for a first class residential Condominium, nor permit the premises to be used

in a disorderly or unlawful way. The use of each Unit shall be consistent with existing laws, the Master Declaration and the Condominium Documents, and Occupants shall at all times conduct themselves in a peaceful and orderly manner.

12.5 Signs. No signs shall be permitted upon Association Property or on any portion of a Unit or Limited Common Element without written permission of the Board of Directors.

12.6 Motor Vehicles; Parking. No vehicle shall be parked on the Submitted Property, the Common Property or on the Common Areas except in conformity with this Declaration, the Master Declaration and the Property Owners Declaration.

12.7 Additional Restrictions. The Master Declaration and the Property Owners Declaration contain additional restrictions which are applicable to the Condominium Property and the Unit Owners. In the event of a conflict between the provisions of this Declaration and the provisions of the Master Declaration, the Master Declaration shall control. In the event of a conflict between the provisions of this Declaration and the Property Owners Declaration, the Property Owners Declaration shall control. Provided however, that the Declaration and the other Condominium Documents may contain provisions which are more restrictive than those contained in the Master Declaration and/or the Property Owners Declaration, in which event the more restrictive provisions shall control. Notwithstanding the foregoing, nothing in the Master Declaration or Property Owners Declaration shall conflict with the powers and duties of the Condominium Association or the rights of the Unit Owners as provided for in the Condominium Act.

13. LEASING OF UNITS. The leasing of Units by Unit Owners shall be restricted as provided in this section. The ability of a Unit Owner to lease his or her Unit to others is a privilege, not a right. The privilege may be revoked by the Board of Directors if it is abused by the owner. All leases of Units must be in writing. A Unit Owner may lease only his or her entire residential unit together with any parking garage appurtenant thereto, and then only in accordance with this section. Owners may not lease parking garaged separately from any Unit which they own. The lessee must be a natural person.

13.1 Procedures.

(A) **Notice by the Unit Owner.** An Owner intending to lease his or her Unit shall give to the Board of Directors or its designee written notice of such intention at least twenty (20) days prior to the first day of occupancy under the lease together with the name and address of the proposed lessee, a fully executed copy of the proposed lease, and such other information as the Board may reasonably require.

(B) **Board Action.** After the required notice and all information or interviews requested have been provided, the Board or if delegated by the Board, any management company managing the operation of the Condominium, shall have twenty (20) days in which to disapprove the proposed lease. If the Board does not affirmatively disapprove within that time, its failure to act shall be deemed the equivalent of approval.

(C) **Disapproval.** Appropriate grounds for disapproval shall include, but not be limited to, the following:

- (1) the Unit Owner is delinquent in the payment of Assessments at the time the application is considered;
- (2) the Unit Owner has a history of leasing to troublesome lessees and/or refusing to control or accept responsibility for the occupancy of his or her unit;

(3) the real estate company or rental agent handling the leasing transaction on behalf of the Unit Owner has a history of screening lessee applicants inadequately, recommending undesirable lessees, or entering into leases without prior Association notification;

(4) the application on its face indicates that the person seeking approval intends to conduct himself or herself in a manner inconsistent with the covenants and restrictions applicable to the Condominium;

(5) the prospective lessee has been convicted of a felony involving violence to persons or property, a felony involving sale or possession of a controlled substance, or a felony demonstrating dishonesty or moral turpitude;

(6) the prospective lessee has a history of conduct which evidences disregard for the rights and property of others;

(7) the prospective lessee evidences a strong probability of financial irresponsibility;

(8) the prospective lessee, during previous occupancy in this Condominium or any other, has evidenced an attitude of disregard for the Association rules;

(9) the prospective lessee gives false or incomplete information to the Board as part of the application procedure, or the required transfer fee and/or security deposit is not paid; or

(10) the Owner fails to give proper notice of his or her intention to lease his or her unit to the Board of Directors.

(D) Failure to Give Notice or Obtain Approval. If proper notice is not given, the Board at its election may disapprove the lease. Any such lease may, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the lessee with five (5) days notice, without securing consent to such eviction from the Unit Owner.

(E) Applications; Assessments. Applications for authority to lease shall be made to the Board of Directors on such forms and include such terms as the Board may provide from time to time. The legal responsibility for paying Condominium Assessments may not be delegated to the lessee.

(F) Committee Approval. To facilitate review of leases proposed during times when many of the members are not in residence, the Board of Directors may by resolution delegate its disapproval powers to an ad hoc committee, which shall consist of at least three (3) members or in the alternative to the aforesaid management company.

13.2 Term of Lease and Frequency of Leasing. No Unit may be leased for a term less than six (6) months. No lease may be for a period of more than one (1) year, and no option for the lessee to extend or to renew the lease for any additional period shall be permitted. However, the Board may, in its discretion, approve the same lessee from year to year. No subleasing or assignment of lease rights by the lessee is allowed.

13.3 Subleases/Assignments of Lease Rights. No subleasing or assignment of lease rights by the lessee is allowed.

13.4 Occupancy During Lease Term. No one but the lessee, his or her family members within the first degree of relationship by blood, adoption or marriage, and their spouses and temporary house guests may occupy

the Unit. The total number of overnight occupants of a leased unit is limited to two (2) persons per bedroom.

13.5 Occupancy in Absence of Lessee. If a lessee absents himself or herself from the Unit for any period of time during the lease term, his or her family within the first degree of relationship already in residence may continue to occupy the Unit and may have house Guests subject to all the restrictions in Section 12 and 13. If the lessee and all of the family members mentioned in the foregoing sentence are absent, no other person may occupy the Unit.

13.6 Use of Common Elements and Association Property. A Unit Owner whose Unit is leased may not use the Association Property and common elements readily available for use generally by Unit Owners during the lease term except as a Guest, unless such rights are waived in writing by the lessee.

13.7 Regulation by Association. All of the provisions of the Condominium Documents and the rules and regulations of the Association shall be applicable and enforceable against any person occupying a Unit as a lessee or Guest to the same extent as against the Owner. A covenant on the part of each occupant to abide by the rules and regulations of the Association and the provisions of the Condominium Documents, designating the Association as the Owner's agent with the authority to terminate any lease agreement and evict the tenants in the event of breach of such covenant, shall be deemed to be included in every lease agreement, whether oral or written, and whether specifically expressed in such agreement or not.

13.8 Fees and Deposits Related to the Lease of Units. Whenever herein the Board's approval is required to allow the lease of a Unit, the Association may charge the Owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law. No fee may be charged for approval of a renewal or extension of a lease with the same lessee. The Association may also require any deposits that are authorized by the Condominium Act as amended from time to time.

13.9 Applicability of Master Declaration. All leases of Units shall be specifically subject to the Master Declaration, and any failure of the lessee to comply with the Master Declaration shall be deemed a default under the lease.

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

14.1 Forms of Ownership.

(A) One Person. A unit may be owned by one (1) natural person who has qualified and been approved as elsewhere provided herein.

(B) Two or More Persons. Co-ownership of Units by two (2) or more natural persons is permitted. If the co-owners are other than husband and wife, the Board shall condition its approval upon the designation of one (1) approved natural person as "primary occupant". The use of the Unit by other person shall be as if the primary occupant were the only actual Owner. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Section 14. No more than one (1) such change will be approved in any twelve (12) month period, except in the case of the death or incapacity of the primary occupant.

(C) Ownership by Corporations, Limited Liability Companies, Partnerships, or Trusts. A Unit may be owned in trust, or by a corporation, limited liability company, partnership, or other entity which is not a natural person, if approved in the manner provided elsewhere herein. The intent of this provision is to allow flexibility in estate, financial or tax planning, and not to create

circumstances in which the unit may be used as short-term transient accommodations for several individuals or families. The approval of a trustee, or corporation, partnership or other entity as a Unit Owner shall be conditioned upon designation by the owner of one (1) natural person to be the "primary occupant." The use of the Unit by other persons shall be as if the primary occupant were the only actual owner. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Section 14. No more than one (1) such change will be approved in any twelve (12) month period, except in the case of the death or incapacity of the primary occupant.

(D) Life Estate. A Unit may be subject to a life estate, either by operation of law or by a voluntary conveyance approved under Section 14.2, below. In that event, the life tenant shall be the only Association member from such unit, and occupancy of the unit shall be as if the life tenant was the only Owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy rights unless separately approved by the Association. The life tenant shall be liable for all Assessments and charges against the unit. Any consent or approval required of Association members may be given by the life tenant alone, and the consent or approval of the holders of the remainder interest shall not be required. If there is more than one (1) life tenant, they shall be treated as co-owners for purposes of determining voting and occupancy rights.

14.2 Transfers.

(A) Sale or Gift. No Unit Owner may dispose of a unit or any ownership interest in a unit by sale or gift (including, without limitation, agreement for deed) without prior written approval of the Board of Directors.

(B) Devise or Inheritance. If any Unit Owner acquires title by devise or inheritance, his or her right to occupy or use the Unit shall be subject to the approval of the Board of Directors under Section 14.3(A)(2), below. The approval shall not be denied to any devisee or heir who was the prior Owner's lawful spouse at the time of death, or was related to the owner by blood or adoption within the first degree.

(C) Other Transfers. If any person acquires title in any manner not considered in the foregoing subsections, that person shall have no right to occupy or use the Unit before being approved by the Board of Directors under the procedures outlines in Section 14.3, below.

(D) To facilitate transfers during times when many of the members are not in residence, the Board of Directors may by resolution delegate its approval powers to an ad hoc committee, which shall consist of at least three (3) members. The Chairman of the committee shall be deemed a Vice-President, and as such shall be empowered to execute Certificates of Approval on behalf of the Association.

14.3 Procedures.

(A) Notice to Association.

(1) Sale or Gift. An Owner intending to make a sale or gift of his or her Unit or any interest therein shall give to the Board of Directors or its designee written notice of such intention at least twenty (20) days before the intended closing date, together with the name and address of the proposed purchaser or donee, a copy of the executed sales contract, if any, and such other information as the Board may reasonably require.

(2) Devise, Inheritance or Other Transfers. The transferee must notify the Board of Directors of his or her Ownership and submit a certified copy of the instrument evidencing his or her ownership and such other information as the Board may reasonably require. The transferee shall have no occupancy or use rights until and unless approved by the Board, but may sell or lease the unit following the procedures in this section or Section 13.

(3) Demand. With the notice required in Subsection (A)(I), above, the Owner or transferee seeking approval may make a written demand that if the transfer is disapproved without good cause, the Association shall furnish an approved alternate purchaser who shall purchase the unit at the same price and upon substantially the same terms as in the disapproved sales contract, or if no contract is involved, for the fair market value of the Unit determined as provided below.

(4) Failure to Give Notice. If no notice is given, the Board of Directors, at its election, may approve or disapprove at the time it learns of the transfer. If any Owner fails to obtain the Association's approval prior to selling an interest in a unit, such failure shall create a rebuttable presumption that the seller and the purchaser intend to violate the covenants of this Declaration, and shall constitute good cause for Association disapproval.

(B) Board Action. Within twenty (20) days after receipt of the required notice and all information or interviews requested, or not later than sixty (60) days after the notice required by paragraph (A) above is received, whichever occurs first, the Board shall either approve or disapprove the transfer. If a transfer is approved, the approval shall be stated in a certificate of approval executed by the President or Vice-President of the Association in recordable form and delivered to the transferee. If the Board neither approves nor disapproves within the time limits as set forth above, such failure to act shall be deemed the equivalent of approval and on demand the Board shall issue a certificate of approval to the transferee.

(C) Disapproval.

(1) With Good Cause. Approval of the Association shall be withheld for good cause only if a majority of the whole Board so votes, after receiving a written opinion of counsel that good cause exists. Only the following may be deemed to constitute good cause for disapproval:

(a) The applicant seeking approval has been convicted of a felony involving violence to persons or property, a felony involving possession or sale of a controlled substance, or a felony demonstrating dishonesty or moral turpitude;

(b) The applicant seeking approval gives the Board reasonable cause to believe that person intends to conduct himself or herself in a manner inconsistent with the covenants and restrictions applicable to the Condominium;

(c) The applicant seeking approval has a history of disruptive behavior or behavior evidencing disregard for the rights or property of others;

(d) The applicant seeking approval has evidenced an attitude of disregard for Association rules by his or her conduct in this Condominium as a tenant, Unit Owner or Occupant of a Unit;

(e) The applicant seeking approval has failed to provide the information, fees

or interviews required to process the application in a timely manner, or provided false information during the application process; or

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

(2) Without Good Cause. The Association's approval shall not be denied unless a majority of the whole Board so votes. If the Board disapproved without good cause, and if the Owner or transferee has made the demand set forth in Section 14.3(A)(3), above, then within thirty (30) days after the Board meeting at which the disapproval took place, the Board shall deliver in writing to the Owner (hereafter "the seller") the name of an approved purchaser who will purchase the Unit at the same price, and upon substantially the same terms, as in the disapproved sales contract. If no sales contract was involved, or if the Association challenges the contract price as not being a good faith purchase price, then the purchase price shall be paid in cash, and the price to be paid shall be determined by agreement, or in the absence of agreement, shall be the fair market value determined by the arithmetic average of appraisals by two (2) state-certified property appraisers, one (1) settled by the seller and the other by the Association. The costs of the appraisals, and all other closing costs in cases where no sales contract is involved, shall be shared equally by the buyer and seller, except that the purchase shall pay for his or her own title insurance, and all costs of mortgage financing. Real property taxes and Condominium Assessments shall be prorated to the day of closing and the parties shall bear their own attorney fees, if any. The closing shall take place not longer than sixty (60) days after the date of Board disapproval or whichever occurs last. Failure or refusal to close by either party shall constitute a breach of contract and shall entitle the other part to seek specific performance or damages.

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

14.4 Exception. The provisions of Sections 14.2 and 14.3, above, are not applicable to the acquisition of title by a first mortgagee who acquires title through the mortgage, whether by foreclosure or deed in lieu of foreclosure, or to any transfer or sale by any such mortgagee which so acquires title, the acquisition of title by a purchaser who acquires title through a duly advertised public sale, such as, but not limited to, a foreclosure sale, judicial sale or tax sale, or the acquisition of title by an individual or entity acquiring title through a court order.

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

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

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

15.1 By the Unit Owner. Each Unit Owner is responsible for insuring his or her own Unit, and the personal property therein; all floor, wall and ceiling coverings; all built-in cabinets, appliances, water heaters, air

conditioning and heating equipment, and electrical fixtures that are located within the unit and required to be repaired or replaced by the owner; and all alterations, additions, and improvements made to the Unit or the common elements by the owner or his or her predecessors in title. Each Unit Owner is expected to carry homeowner's insurance, with endorsements for leakage, seepage, and wind-driven rain, additions and alterations, and loss Assessment protection, or recognize that he or she bears financial responsibility for any damage to his or her property or liability to other that would otherwise be covered by such insurance.

15.2 Association Insurance; Duty and Authority to Obtain. The Board of Directors shall obtain and keep in force, for the benefit of itself, the Unit Owners and the Association, as their interests appear, the insurance coverage which it is required to carry by law and under the Condominium Documents, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The name of the insured shall be the Association and the Unit Owners without naming them and their mortgagees, as their interests shall appear. To the extent permitted by law, the Association may self-insure.

15.3 Required Coverage. The Association shall maintain (or make provision for as set forth above) adequate insurance covering all of the Buildings and the common elements as well as all Association Property, in amounts determined annually by the Board of Directors, such insurance to afford the following protection:

- (A) Property. Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by what is commonly known as an "All Risk" property contract;
- (B) Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors, with cross liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner;
- (A) Automobile. Automobile liability for bodily injury and property damage for all owned and non-owned motor vehicles, in such limits of protection and with such coverage as may be determined by the Board of Directors;
- (D) Compensation. The Association shall maintain Workers' Compensation insurance on at least a minimum premium basis; and
- (E) Statutory Fidelity Bond. Any bond required by law or by the Board.

15.4 Optional Coverage. The Association may purchase any carry other such insurance coverage as the Board of Directors may determine to be in the best interest of the Association and Unit Owners. Some of the more common options include:

- (A) Flood insurance;
- (B) Broad Form Comprehensive General Liability Endorsement;
- (C) Directors and Officers Liability;
- (D) Medical Payments; and
- (E) Leakage, seepage and wind-driven rain.

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

request.

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

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

- (A) Common Elements. Proceeds on account of damage to common elements shall be held in as many undivided shares as there are Units, the shares of each Unit Owner being the same as his or her share in the common elements.
- (B) Units. Proceeds received on account of damage within the Units shall be held in prorated shares, based on the amount of damage within each damaged Unit as a percentage of the total damage within all Units.
- (C) Mortgagee. If a mortgagee endorsement has been issued as to a Unit, the shares of the mortgagee and the Unit Owner shall be as their interests appear. No mortgagee shall have the right to require application of insurance proceeds to any mortgage it may hold against a Unit, unless insurance proceeds on account of damage to that Unit are not used for repairs, or the proceeds exceed the actual cost of repairs or reconstruction. Except as otherwise expressly provided, no mortgagee shall have the right to participate in determining whether improvements will be repaired or reconstructed after casualty.
- (B) Deductible. The policies may provide for reasonable deductibles. In the case of property insurance, the deductible shall be paid by the party who would be liable for the loss or required to pay for the repairs in the absence of insurance. If multiple parties would be responsible, the deductible shall be allocated among them in relation to the amount each party's loss bears to the total.

The foregoing notwithstanding, insurance proceeds on account of NFIP flood insurance policies (if any) covering specific Units which was purchased by the Association or various Unit Owners shall be used only for the purpose of repairing or replacing the Unit to which the respective policy applies and that Unit's appurtenant share of the common elements, and no other Unit Owner or Unit may benefit from said proceeds. If the Condominium is not to be restored or rebuilt, the proceeds shall accrue to the benefit of the respective Unit Owner and his or her mortgagees, if any.

15.8 Distribution of Proceeds. Insurance proceeds from Association policies shall be distributed to or for the benefit of the Unit Owners in the following manner:

- (A) Costs of Protecting and Preserving the Property. If a person other than the person responsible for repair and reconstruction has properly advanced funds to preserve and protect the property to prevent further damage or deterioration, the funds so advanced shall first be repaid, with interest if required.
- (B) Cost of Repair or Reconstruction. If the damage for which the proceeds are paid is to be repaired or reconstructed the remaining proceeds shall be paid to defray the costs as provided in Sections 15.7 (A) and (B), above. Any proceeds remaining after repairs and reconstruction shall be

distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being paid jointly to them.

- (C) Failure to Repair or Reconstruct. If it is determined in the manner elsewhere provided herein that the damages for which the proceeds are paid shall not be reconstructed or repaired, the proceeds on account of that damage shall be distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being payable jointly to them.

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

16. RECONSTRUCTION OR REPAIR AFTER CASUALTY. If any part of the Condominium Property is damaged by casualty, whether and how it shall be reconstructed or repaired shall be determined as follows, subject nevertheless to the overriding provisions of the Master Declaration:

16.1 Damage to Units. Where loss or damage occurs within one (1) or more Units, any Association insurance proceeds on account of the loss or damage shall be distributed to the Owner(s) of the damaged Unit(s) in shares as provided in Section 15.7, above. The Owner(s) of the damaged Unit(s) shall be responsible for reconstruction and repair, and shall bear the burden of the deductible in the same shares as they received the benefits of the Association's coverage.

16.2 Damage to Common Elements – Less than "Very Substantial". Where loss or damage occurs to the common elements, but the loss is less than "very substantial," as herein defined, it shall be mandatory for the Association to repair, restore, and rebuild the damage caused by the loss, but none the less subject to the terms of the Master Declaration and the following procedures shall apply:

- (A) The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of repair and restoration, and shall negotiate and contract for repair and reconstruction.
- (B) If the proceeds of insurance and available reserves are insufficient to pay for the cost of repair and reconstruction of the common elements, the Association shall promptly, upon determination of the deficiency, levy a special assessment against all Unit Owners in proportion to their shares in the common elements for the deficiency. Such special assessments need not be approved by the Unit Owners. The proceeds from the special assessment shall be added to the funds available for repair and restoration of the property.

16.3 "Very Substantial Damage." As used in this Declaration, the term "very substantial" damage shall mean loss or damage caused by a common occurrence whereby at least two thirds (2/3) of the Units, cannot reasonably be rendered habitable, or that the portions of the Condominium Property and the Common Property which are necessary to make use of the Units, cannot be used within one-hundred twenty (120) days after the casualty. Should such "very substantial" damage occur then:

- (A) The Board of Directors and the officers, or any of them, are authorized, regardless of any other provision of this Declaration, to take such action as may reasonably appear to be necessary under emergency conditions, as further provided in Section 4.17 of the Bylaws. This authority includes actions to protect life and property, to evacuate or shore-up structures and salvage property, to engage security to protect against looting or other criminal acts, and to alter the Condominium Property or Association Property as might be reasonable under the circumstances to protect the Condominium Property or Association Property from further damage or deterioration. This authority includes the authority to expend any and all available Association funds, including reserves.

- (B) The Board of Directors shall endeavor to obtain comprehensive, detailed estimates of the cost of repair and restoration.
- (C) A membership meeting shall be called by the Board of Directors to be held not later than sixty (60) days after the Board has obtained the estimates, to determine the opinion of the membership on rebuilding or termination of the Condominium, subject to the following:
 - (1) If the insurance proceeds, reserves and other Association funds available for restoration and repairs that are the Association's responsibility are sufficient to cover the estimated cost thereof so that it is reasonably anticipated that the repairs and reconstruction can be accomplished with a special assessment not exceeding fifteen percent (15%) of the total annual budget for the year in which the casualty occurred, then the Condominium shall be restored or repaired unless two-third (2/3) of the total voting interests vote for termination, in which case the Condominium shall be terminated.
 - (2) If upon the advice of legal counsel, it appears unlikely that the then applicable zoning or other regulatory laws will allow reconstruction of the same number and general types of Units, or if the insurance proceeds, reserves and other Association funds available for restoration and repair are not sufficient to cover the estimated cost thereof so that it is reasonably anticipated that the repairs and reconstruction can only be accomplished by levying special assessments exceeding fifteen percent (15%) of the total annual budget for the year in which the casualty occurred, unless two-thirds (2/3) of the total voting interests vote in favor of such special assessment and against termination of the Condominium, it shall be terminated and the property removed from the provisions of the Condominium Act. If the requisite number of Unit Owners approve reconstruction, the Board of Directors shall levy the necessary Assessments and shall proceed to negotiate and contract for repairs and restoration. The proceeds from the special assessments shall be added to the funds available for repair and restoration of the property.
- (D) If any dispute shall arise as to whether "very substantial" damage has occurred, or as to the amount of special assessments required, a determination approved by at least two-thirds (2/3) of the Directors shall be conclusive, and shall be binding upon all Unit Owners.

16.4 Application of Insurance Proceeds. It shall always be presumed that monies disbursed for repair and restoration come first from insurance proceeds, if there is a balance left in the funds held by the Association after the payment of all costs of repair and restoration, such balance shall be distributed to the Unit Owners, except as otherwise provided in Section 15.7(C) above.

16.5 Equitable Relief. If damage to the common elements renders any Unit uninhabitable, and the damage is not repaired, reconstructed, or rebuilt within a reasonable period of time, the Owner of the uninhabitable Unit may petition a court for equitable relief, which may include a termination of the Condominium and a partition. For the purposes of this provision, it shall be conclusively presumed that repair, reconstruction, or rebuilding has occurred within a reasonable period of time if substantial work is commenced within six (6) months after the occurrence of the damage or destruction, and is completed within nine (9) months thereafter.

16.6 Plans and Specifications. Any reconstruction or repairs must be substantial in accordance with the plans and specifications for the original Building, or according to different plans and specification approved by the Board of Directors, by the Owners of at least two-thirds (2/3) of the Units, and by the Primary Institutional Mortgagee, if any, and, in any event, in accord with the requirements and procedure of the Master Declaration. Such approvals may not be unreasonably withheld. However, no change in plans and specifications shall materially reduce the interior floor space of any Unit without the consent of the Unit Owner and his or her Institutional Mortgagee, if any.

17. CONDEMNATION.

17.1 Deposit of Awards with Association. The taking of all or any part of the Condominium Property by condemnation or eminent domain shall be deemed to be a casualty to the portion taken and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty. Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Association, and if any fail to do so, a special charge shall be made against the defaulting Unit Owner in the amount of his or her award, or the amount of that award shall be set off against any sums payable to that Owner.

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

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

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

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

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

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

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

(A) Payment of Award. The fair market value of the Unit immediately prior to the taking shall be paid to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and mortgagee(s).

(B) Addition to Common Elements. If possible and practical, the remaining portions of the Unit shall become a part of the common elements, and shall be placed in condition for use by some or all Unit Owners in the manner approved by the Board of Directors.

(C) Adjustments of Shares in Common Elements. The shares in the common elements appurtenant to the Units that continue as part of the Condominium shall be increased to absorb the ownership shares of the Units not continuing among the reduced number of Units. This shall be

done by amending the ownership shares of each continuing Unit in the common elements to be a fraction of the whole, based on the total square footage of each Unit in uniform relationship to the total square footage of each other Unit in the Condominium. The amendment must be approved by a majority of all Unit Owners if it is not ordered by a governmental entity, but no other consent is required.

(D) Assessments. If the amount of the award for the taking is not sufficient to pay the fair market value of the condemned Unit to the Unit Owner and to condition the remaining portion of the Unit for use as a part of the common elements, the additional funds required for those purposes shall be raised by special assessment against all Unit Owners who will continue as Owners of Units after the changes in the Condominium affected by the taking. The Assessments shall be made in proportion to the shares of those owners in the common elements after the changes affected by the taking.

(E) Arbitration. If the fair market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and the Association within thirty (30) 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 (1) 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, and a judgment of specific performance upon the value arrived at by the appraisers may be entered in any court of competent jurisdiction. The cost of appraisal shall be paid by the party selecting the appraiser.

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

18.1 Agreement. The Condominium may be terminated at any time by written agreement of the Owner of at least three-fourths (3/4) of the Units, and the Primary Institutional Mortgagee.

18.2 Very Substantial Damage. If the Condominium suffers "very substantial damage" to the extent defined in Section 16.3, above, and it is not decided as therein provided that the Condominium will be constructed or repaired, the condominium form of ownership of the property in this Condominium will be terminated.

18.3 Decision Under the Master Declaration. If an action, event, or circumstance arises under the Master Declaration, such that a casualty or taking occurs, or other action, calling for the Building to be demolished or, if damaged, not rebuilt, then such action, event, or circumstance shall result in termination.

18.4 Certificate of Termination. 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 is recorded in the public records of St. Johns 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 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 is automatically transferred to the equitable share in the Condominium Property attributable to the Unit encumbered by the lien, with the same priority.

18.5 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, for the purpose of winding up the affairs of the Association in accordance with this section.

18.6 Trustee's 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 provision of this section. 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. 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 malfeasance. The termination trustee may rely upon the written instructions and information provided by officers, Directors or agents of the Association, and shall not be required to inquire beyond such information and instructions.

18.7 Partition; Sale. Following termination, the former Condominium Property and Association Property may be partitioned and sold upon the application of any Unit Owner. If following a termination, at least sixty percent (60%) 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.

18.8 Sale of Condominium Property and/or Purchase of Remainder of Property. In the event that an event, action, or circumstance occurs or arises under this Declaration or under the Master Declaration that gives rise to a right in favor of the Association or the Unit Owners to purchase or sell, then in any such event, Owners of Units to which sixty percent (60%) of the voting interests are attached may vote to sell or purchase, as is the case. Provided however, nothing herein shall obligate any Unit Owner who has not voted in favor of a decision to purchase, to contribute Assessments for or be obligated to pay a share thereof. Instead, however, any such Unit Owner shall, notwithstanding a negative vote, have the right to participate in such purchase with other Unit Owners, pari passu, or the right to instead require that (and the right to allow) the Unit Owners comprising the sixty percent (60%) of voting interests, that approved the purchase, to also purchase the interest of said Unit Owners as were not part of the sixty percent (60%). The failure of such Unit Owners to make such an election shall be deemed to be an election to allow the approving Unit Owners to purchase. The price to be paid for the interest will be its fair market value which will be determined among the selling and purchasing Unit Owners in a manner, and following a procedure similar to that set forth in Section 14.3(C)(2) hereof.

18.9 New Condominium. The termination of the Condominium does not bar creation of another condominium including all or any portion of the same property.

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

shall be 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.

19. OBLIGATIONS OF OWNERS.

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

- (A) The Association;
- (B) A Unit Owner;
- (C) Anyone who occupies a Unit including, without limitation, tenants;
- (D) Any member of the Board of Directors who willfully and knowingly fails to comply with these provisions; or
- (E) Any Director appointed by the Developer, for actions taken by them prior to the time control of the Association is assumed by Unit Owners other than the Developer.

19.2 Waiver of Rights. The failure of the Association or of a member to enforce any right, provision, covenant or condition which may be granted by the Condominium Documents shall not constitute a waiver of the right of the Association or member to enforce such right, provision, covenant or condition in the future. A provision of the Condominium Act may not be waived by a Unit Owner if the waiver would adversely affect the rights of the Owner or defeat the purpose of the provision, except that Unit Owners or Directors may waive notice of specific meetings as provided in the Bylaws. Any written instrument or instruction given by a prospective purchaser or Unit Owner to an escrow agent may be relied upon by the escrow agent, whether or not such instruction and the payment of funds thereunder might otherwise constitute a waiver of any provision of the Condominium Act.

19.3 Attorney's Fees. In any legal proceeding arising out of an alleged failure of a tenant, Unit Owner or the Association to comply with the requirements of the Condominium Act or the Condominium Documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys fees, costs and expenses of litigation as may be awarded by the court, though all appellate levels, and including those fees incurred prior to suit being initiated.

19.4 No Election of Remedies. All rights, remedies, and privileges granted to the Association or Unit Owner under any terms, provision, covenants, or conditions of the Condominium Documents shall be deemed to be cumulative, and the exercise of any one (1) or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising such other additional rights, remedies, or privileges as may be granted by the Condominium Documents, or at law or in equity.

20. RIGHTS OF MORTGAGEES.

20.1 Approvals. Written consent of the institutional mortgagee of a Unit shall be required for any amendment to the Declaration which would decrease the percentage interests of the Unit in the ownership of the common elements, except as provided in Sections 17.5 and 17.6(C) above.

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

20.3 Redemption. If proceedings are instituted to foreclose any mortgage or lien on any Unit, the Association, on behalf of one (1) or more Unit Owners and with the permission of the mortgagee, may redeem the mortgage or lien for the amount due thereon and be thereby subrogated to all of the mortgagee's or lienor's rights of action, or the Association may purchase the Unit at the foreclosure sale. A mortgagee shall have an unrestricted, absolute right to accept title to the Unit in settlement and satisfaction of the mortgage or to foreclose its mortgage in accordance with its terms, and to bid upon the Unit at the foreclosure sale.

20.4 Right to Inspect Books. The Association shall make available to institutional mortgagees upon request current copies of the recorded Condominium Documents and the books, records and financial statements of the Association. "Available" means ready for inspection, upon written request, during normal business hours, or under other reasonable circumstances. Photocopies provided at the request of the mortgagee shall be at the expense of the mortgagee.

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

20.6 Lender's Notice. Upon written request to the Association, any institutional mortgagee shall be entitled to timely written notice of:

(A) Any delinquency of sixty (60) days or longer in the payment of Assessments or charges owed by the Owner of any Unit on which it holds a mortgage.

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

(C) Any proposed action that requires the consent of a specified number or percentage of mortgage holders.

(D) **Right to Cover Cost.** Any institutional mortgagee shall have the right, but not the obligation, jointly or singularly, and at their sole option, to pay any of the Assessments which are in default and which may or have become a charge against any Unit. Further, any institutional mortgagee shall have the right, but not the obligation, jointly or singly, and at their sole option, to pay insurance premiums or fidelity bond premiums on behalf of the Association where, in regard to insurance premiums, the premiums are overdue and where lapses in policies may or have occurred. Any institutional mortgagee paying insurance premiums on behalf of the Association as set forth above shall be entitled to immediate reimbursement from the Association plus any costs of collection, including, without limitation, legal fees.

21. AMENDMENT OF DECLARATION. Except as otherwise provided herein as to amendments made by the Developer, all amendments to this Declaration shall be proposed and adopted in the following manner:

21.1 Proposal. Amendments to this Declaration may be proposed by the Board of Directors or by written petition signed by the Owners of one-fourth (1/4) of the voting interests of the Association.

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

21.3 Vote Required. Except as otherwise provided by law, or by specific provision of the Condominium Documents, or except where a greater percentage vote is required by this Declaration for a certain action (in which case such greater percentage shall also be required to effectuate an amendment), this Declaration

may be amended if the proposed amendment is approved by at least two-thirds (2/3) of the voting interests present in person or by proxy voting at any annual or special meeting called for the purpose. The foregoing notwithstanding, prior to the assumption of control of the Association by Unit Owners other than the Developer, this Declaration may be amended by a vote of a majority of the Directors.

21.4 Certificate: Recording. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall be in the form required by law and shall be executed by officers of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the public records of St. Johns County, Florida.

21.5 Proviso. An amendment to this Declaration may change the configuration or size of any unit in a material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the Owner of a parcel shares the common expenses and owns the common surplus, only if the record Owner of the unit, his or her Institutional Mortgagee, if any, and the Owners of at least a majority of the units, consent to the amendment. This proviso does not apply to changes in ownership shares necessitated by condemnation or a taking by eminent domain under Section 17, above.

21.6 Amendment of Provisions Relating to Developer. As long as the Developer holds any units in the Condominium for sale in the ordinary course of business, no amendment shall be effective to change any provision relating specifically to the Developer without the Developer's written consent.

21.7 Rights of Developer and Institutional Mortgagees. No amendment shall be passed which shall materially impair or prejudice the rights or priorities of Developer, the Association, or any institutional mortgagee under this Declaration and the other Condominium Documents without the specific written approval of Developer, the Association and any institutional mortgagees affected thereby. The consent of such Institutional Mortgagee may not be unreasonably withheld. In addition, any amendment that would affect the surface water management system, including the water management portions of the common elements, if any, must have the prior approval of the St. Johns River Water Management District.

21.8 Amendments Required by Secondary Mortgage Market Institutions. Notwithstanding anything contained herein to the contrary, Developer, without the consent of the Unit Owners, may file any amendment which may be required by an Institutional Mortgagee for the purpose of satisfying its planned unit development criteria or such criteria as may be established by such mortgagee's secondary mortgage market purchasers, including without limitation, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; provided, however, that any such Developer-filed amendments must be in accordance with any applicable rules, regulations and other requirements promulgated by the United States Department of Housing and Urban Development.

22. MISCELLANEOUS.

22.1 Severability. The invalidity or unenforceability in whole or in part of any covenant or restriction or any section, subsection, sentence, clause, phrase or word or other provision of this Declaration, or any exhibit attached thereto, shall not effect the remaining portions thereof.

22.2 Applicable States. The validity, application and construction of this Declaration and its exhibits shall be governed by the laws of Florida, particularly the Condominium Act, as it exists on the date of recording this Declaration in the public records of St. Johns County, Florida.

22.3 Conflicts. If there is a conflict between any provision of this Declaration the Master Declaration or the Property Owners Declaration, the Master Declaration and/or Property Owners Declaration shall control. Notwithstanding the foregoing, nothing in the Master Declaration or Property Owners Declaration shall conflict

with the powers and duties of the Condominium Association or the rights of the Unit Owners as provided for in the Condominium Act. If there is a conflict between this Declaration and the Association's Articles of Incorporation or Bylaws, the Declaration shall control.

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

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

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

IN WITNESS WHEREOF, the Association has caused this Amended and Restated Declaration to be executed in its name by its officers hereunder duly authorized as of the day and year first above written.

Witnesses:

La Terraza II Condominium Association, Inc.

Elizabeth Novak
Print Name: Elizabeth Novak

By: Peter Erikson
Peter Erikson, President

Jennifer Johnston
Print Name: Jennifer Johnston

STATE OF FLORIDA
COUNTY OF Duval

The foregoing instrument was acknowledged before me this 4th day of February, 2015, by Peter Erikson, President of La Terraza II Condominium Association, Inc., who is personally known to me or has produced Florida Drivers License identification.

