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**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF**

**BELLA COSTA #2, A CONDOMINIUM**

WHEREAS, this is the Amended and Restated Declaration of Condominium of Bella Costa #2, a Condominium. Nothing herein shall in any way alter the configuration or size of any Condominium Unit or the appurtenances to any Unit, the percentage or proportionate share by which the Owner of a Unit shares the Common Expenses, Common Elements and the Common Surplus as created by the Original Declaration of Condominium amended herein. The Original Declaration of Condominium of Bella Costa #2, a Condominium, was recorded in Official Record Book 1019, Page 880 in the Public Records of Sarasota County, Florida.

**THIS IS A SUBSTANTIAL REWORDING OF THE ORIGINAL DECLARATION OF CONDOMINIUM. SEE THE PREVIOUS DECLARATION OF CONDOMINIUM AND AMENDMENTS FOR PRIOR TEXT.**

**ARTICLE I. SUBMISSION STATEMENT**

**1.1. SUBMISSION TO OWNERSHIP:** Hamilton Builders, Inc., a Florida corporation of Venice, Florida, ~~does hereby submit~~ted to condominium ownership pursuant to Chapter 718, Florida Statutes, known as "The Condominium Act," a fee simple interest in the land and improvements situated, lying and being in the County of Sarasota, State of Florida, being more particularly described in attached Exhibit "A" as land submitted to condominium ownership. In addition, the Developer ~~is leasing~~leased to the condominium association the land shown on Exhibit "A" as the land leased to the condominium association for ninety-nine years.

**ARTICLE II. NAME AND LOCATION**

**2.1. NAME:** The name by which this condominium shall be known and identified is Bella Costa # 2, a Condominium, and ~~its address~~it is located in Venice, Florida.

**ARTICLE III. COVENANTS RUNNING WITH THE LAND**

**3.1. CONSTRUCTION OF IMPROVEMENTS.** ~~The improvements are being constructed in accordance with plans and specifications approved by R.S. Hamilton, Inc., and title to each of the condominium parcels is vested in R.S. Hamilton, Inc. or its grantee. Title shall be conveyed by warranty deed in the form attached hereto as Exhibit "B."~~ The submission to condominium ownership has been made subject to all provisions of Chapter 718, Florida Statutes, and all restrictions, reservations, covenants, conditions, limitations and easements of public record and as set forth or otherwise referred to herein, all of which shall be and constitute covenants running with the land or equitable servitude upon the land and shall be binding upon all unit owners as hereinafter defined, and their grantees, devisees, mortgagees, successors and assigns. By the recording or acceptance of a deed conveying a Unit or any interest therein or any ownership interest in the Condominium Property whatsoever, the person to whom such Unit or interest is conveyed shall be deemed to have accepted

or agreed to be bound by, and subject to all the provisions of the Condominium Act, this Declaration, the Articles of Incorporation, and the Bylaws and the rules and regulations adopted thereunder.

#### **ARTICLE IV. DEVELOPMENT PLAN**

4.1 The Bella Costa #2 Condominium consists of ninety-eight (98) units, and the owners of units are responsible for the shares of expenses, and shall own a pro-rata share of the common elements for Bella Costa #2 and the common surplus for the condominium as set forth in Article VII. The Association also administers a separate condominium, Bella Costa #1, a Condominium, consisting of sixty (60) units. The owners of units in the condominiums, as members of Bella Costa, Inc., shall pay a pro-rata share of liability for expenses attributable to expenses that are common to all members of the Association and shall own a pro-rata share of the common surplus of the Association.

#### **ARTICLE V. DEFINITIONS**

~~4. DEFINITIONS.~~ The terms used in this Declaration and in its exhibits shall have the meaning stated in the Condominium Act, Section 718, *Florida Statutes*, and as follows, unless the context otherwise requires:

~~4.1.5.1~~ “Apartment” or “UNIT” means ~~unit~~ a part of the condominium property which is subject to exclusive ownership as defined by the Condominium Act.

~~4.25.2~~ OWNER OR APARTMENT UNIT OWNER means ~~unit owner~~ a record owner of legal title to a condominium parcel as defined by the Condominium Act.

~~4.35.3~~ ASSOCIATION means Bella Costa, Inc. and its successors.

~~4.45.4~~ COMMON ELEMENTS shall mean all portions of the condominium property not included in the units, and shall include the tangible personal property required for the maintenance and operation of the condominium even though owned by the Association, as well as the items stated in the Condominium Act.

~~4.55.5~~ LIMITED COMMON ELEMENTS means the docks the use of which is limited to the owner or owners of condominium units with corresponding numbers.

~~4.65.6~~ COMMON EXPENSES INCLUDE:

- (a) Expenses of administration; expenses of maintenance, operation, repair, or replacement of the common elements, and of the portions of units to be maintained by the Association.
- (b) Expenses declared common expenses by provisions of this Declaration or the Bylaws.
- (c) Any valid charge against the Condominium property as a whole.
- (d) Charges for utility services except such services as are metered separately to each unit.
- (e) Expenses of maintenance, operation, insurance, taxes, repair and replacement of the leased premises described in the lease attached hereto as Exhibit “~~CB~~.”

(f) Lease payments due from the Association, as Lessee, to ~~Robert J. Hamilton, as~~ Lessor.

(g) Proportionate share of the expenses incurred by the Association in connection with the operation, maintenance and improvement of the recreational areas owned by the Association.

(h) The cost of master antenna television system or duly franchised cable television, or any communication services or internet services ~~service~~ obtained pursuant to a bulk contract or as may be permitted by the Condominium Act.

**4.75.7** CONDOMINIUM means all of the condominium property as a whole when the context so permits, as well as the meaning stated in the Condominium Act.

**5.8** CONDOMINIUM ACT or ACT means Chapter 718, Florida Statutes, as it may be amended from time to time.

**5.9** CONDOMINIUM DOCUMENTS or GOVERNING DOCUMENTS include this Declaration of Condominium, the Articles of Incorporation for the Association (attached as Exhibit "C"), the Bylaws of the Association (attached as Exhibit "D"), and the Rules and Regulations adopted by the Board, all as amended from time to time.

**5.10** CONDOMINIUM PARCEL means a Unit, together with the undivided share in the common elements appurtenant to the unit.

~~4.8 SINGULAR, PLURAL GENDER. Whenever the context so permits, the use of the plural shall include the singular, the plural, the use of any gender shall be deemed to include all genders.~~

~~4.9 UTILITY SERVICES as used in the Condominium Act and as construed with reference to this condominium, and as used in the Declaration and Bylaws, shall include but not be limited to electric power, gas, hot and cold water, garbage and sewage disposal and cable television apparatus.~~

~~4.10 DEVELOPER means Hamilton Builders, Inc.~~

## **ARTICLE VI. CONDOMINIUM PLAT AND UNIT BOUNDARIES; EASEMENTS**

~~5. SURVEY AND FLOOR PLAN.~~ A survey of the land subject to this Condominium, and a graphic description of the improvements, and a plat plan locating the improvements thereon, and a floor plan identifying each unit and the common elements and their relative locations and approximate dimension are attached hereto, incorporated herein and marked Exhibit "A." The condominium units shall be known and numbered as described in said Exhibit "A."

**5.46.1 EASEMENTS.** Easements are reserved through the condominium property as may be required for the utility services in order to serve the condominium adequately; provided, however, such easements through ~~an apartment~~ Unit shall be only according to the plans and specifications for the ~~apartment~~Unit buildings or as the building is constructed, unless approved in writing by the ~~apartment~~Unit owner.

**14.1 (a) INGRESS AND EGRESS:** Owners of units shall have as an appurtenance thereto a perpetual easement for ingress and egress to and from their unit over stairs, terraces, balconies, elevators, walks, and other common elements.

**(b) 14.2 ENCROACHMENTS:** All condominium property shall be subject to perpetual easements for encroachments presently existing or which may hereafter be caused by settlement or movement of the building or minor inaccuracies in construction, which easements shall continue until such encroachment no longer exists.

**(c) 14.3 EASEMENTS:** The Board of Directors has the authority, without the joinder of any unit owner, to grant, modify, or move any easement if the easement constitutes part of or crosses the common elements or Association property. This subsection does not authorize the Board of Directors to modify, move, or vacate any easement created in whole or in part for the use or benefit of anyone other than the unit owners, or crossing the property of anyone other than the unit owners, without the consent or approval of those other persons having the use or benefit of the easement, as required by law or by the instrument creating the easement. Nothing in this subsection affects the minimum requirements or the powers enumerated in The Condominium Act.

**5.26.2 NUMBER OF UNITS:** The Condominium consists of ninety-eight (98) condominium units. ~~the~~ The common elements include all that property submitted to condominium ownership that is not included within the units.

**5.36.3 UNIT BOUNDARIES:** The unit boundaries shall be defined as follows:

**(a) UPPER AND LOWER BOUNDARIES:** The upper and lower boundaries of the unit shall be the following boundaries extended to an intersection with the parametrical boundaries:

(1) Upper boundary:— the horizontal plane of the lower imprinted surfaces of the ceiling (including attics where applicable).

(2) Lower boundary:— the horizontal plane of the lower surfaces of the floor slab.

**(b) PARAMETRICAL BOUNDARIES:** The parametrical boundaries of the units shall be the following boundaries extended to an intersection with the upper and lower boundaries:

(1) Exterior building walls:— the intersecting vertical planes adjacent to and which include the interior of the outside walls of the ~~apartment~~ building bounding a unit and fixtures thereon, and where there is attached to the building a screen porch, such boundaries shall be the intersecting vertical planes adjacent to and which include all of such structures and fixtures thereon.

(2) Interior building walls:— the vertical planes of the center line of walls bounding a unit extended to intersections with other parametrical boundaries, with the following exceptions:

(i) When walls between units are of varying thicknesses, or abut a column or shaft, the plane of the center line of a bounding wall shall be extended to an intersection with a connecting bounding plane without regard to the plane of the center line of an intervening column or shaft.

(ii) When walls of different thicknesses abut with a flush side, so that their center lines do not intersect, the plane of the center line of the thinner wall shall be extended into the thicker wall for a distance which is one-half of the thickness of the thinner wall, and the boundaries shall thence run at a right angle to the plane of the center line of the thicker wall.

## **ARTICLE VII. THE ASSOCIATION**

The operation of the Condominium shall be by BELLA COSTA, INC., a corporation not-for-profit, created under the laws of the state of Florida, which shall fulfill its functions pursuant to the following provisions:

**7.1 AUTHORITY:** The Association shall have all of the powers and authority reasonably necessary to operate the Condominium as set forth in this Declaration, the Bylaws and the Articles of Incorporation of the Association, as they may be amended from time to time. Said Association shall also have all the powers and duties of an Association as set forth in the Condominium Act, and the Florida Not For Profit Corporation Act (Chapter 617, Florida Statutes) as amended from time to time; the power to acquire and enter in Agreements whereby it acquires leaseholds, memberships, and other possessory or use interests in lands or facilities, antenna or cable television/internet/communications systems, whether or not contiguous to the lands of the Condominium, intended to provide for the enjoyment, recreation, use or benefit of Unit Owners and to declare the expenses of membership fees, dues, operations, replacements, rents or payments, and other undertakings in connection therewith to be Common Expenses and may make agreements, covenants and restrictions not inconsistent with the Condominium Act, as may be required; and the power to contract for the management of the Condominium and to delegate to the contract manager all of the powers and duties of the Association except such as are specifically required by this Declaration, the Bylaws, or the Condominium Act to have the approval of the Board of Directors or the membership of the Association.

**7.2 MEMBERSHIP AND VOTING RIGHTS:** The record owners of all units in this condominium shall be members of the Association. There shall be one (1) vote per unit to be cast in the manner set forth in the Bylaws.

**7.3 MEMBERS' SHARES:** The share of a member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as appurtenant to his Unit.

**7.4 STATUTORY RIGHT OF ACCESS:** The Association has the irrevocable right of access to each Unit during reasonable hours, when necessary, for the maintenance, repair or replacement of any Common Element or for making emergency repairs which are necessary to prevent damage to the Common Elements or to another Unit or Units, to the fullest extent allowed by the Condominium Act.

**7.5 ABANDONED UNITS:** Pursuant to the Condominium Act, the Association may, at the sole discretion of the Board, enter into an abandoned unit, as defined by the Condominium Act, to inspect the unit and adjoining common elements, to make repairs to the unit or the common elements serving the unit, repair the unit if mold or deterioration is present, turn on the utilities for the unit, or otherwise maintain, preserve, or protect the unit and adjoining common elements to the fullest extent allowed by law. Any expense incurred by the Association pursuant to this provision is chargeable to the unit owner and enforceable as an assessment, and the Association may use its lien authority to enforce collection of the expense.

7.6 KEYS: The Board shall have the authority to require that all owners provide a key to their unit for access during emergencies or as otherwise permitted by law.

7.7 -TITLE TO PROPERTY: The Association has the power to acquire title to property or otherwise hold, convey, lease, and mortgage Association property for the use and benefit of its members upon approval of 75% of the total voting interests of the Association. Except, there shall be no limitation on the Association's right to purchase a unit at a foreclosure sale resulting from the Association's foreclosure of its lien for unpaid assessments or to take title by deed in lieu of foreclosure.

~~6. THE CONDOMINIUM ACT.~~ Chapter 718, Florida Statutes, is incorporated hereby by reference, and all provisions thereof shall apply to this Condominium, except as modified herein.

**ARTICLE VIII. 7. PERCENTAGE OF OWNERSHIP OF COMMON ELEMENTS, COMMON SURPLUS, AND SHARING COMMON EXPENSES.**

7.48.1. SHARE OF COMMON EXPENSES AND SHARE OF COMMON SURPLUS: The common expenses of the condominium and the common surplus shall be divided equally among the units, with each owner owning a one ninety-eighth (1/98<sup>th</sup>) share.

7.28.2. SHARE OF OWNERSHIP OF COMMON ELEMENTS: The undivided share owned by each owner in the common elements appurtenant to each unit shall be obtained by dividing the amount of square footage of each unit into the square footage of the boundaries of the entire apartment building in which the unit is located and applying the percentage to the individual unit.

7.38.3 BELLA COSTA #1, A CONDOMINIUM: Unit owners in Bella Costa #2 shall have mutual nonexclusive easements with Bella Costa #1, a Condominium for ingress and egress over all walkways and driveways, together with the use of and access of all common utility lines for the purpose of repair, maintenance, and common use with Bella Costa #1 where required. All common expenses of Bella Costa #2 Condominium shall merge with all common expenses of Bella Costa #1 Condominium and shall be evenly proportioned among all units of both condominiums; provided, however, that all special assessments for replacements and repairs shall be apportioned only among the owners of units in the condominium requiring such replacement or repairs, provided further that owners of units in Bella Costa #1 and Bella Costa #2 shall automatically be members of the Association and subject to all provisions of the Bylaws and Articles of Incorporation.

**ARTICLE IX.8. AMENDMENTS TO DECLARATION.**

An amendment may be proposed by either the Board of Directors of the Association, or by not less than twenty-five percent (25%) of the Members of the Association. This Declaration may be amended at any time by affirmative vote of 51% of the units present in person or by proxy provided, however, that ~~Paragraphs 6 through 6.3 and 8 through 8.2 above may not no amendments to a unit owners share of common expenses, share of common surplus, share of ownership of common elements, or amendments to the number of units or to unit boundaries may~~ be amended without the consent of 100% of the units and in accordance with the Condominium Act.

**8.19.1. MORTGAGE HOLDER APPROVAL:** Consent of holders of liens on any portion of the condominium property or any unit shall not be required to modify or amend as aforesaid; provided, however, that the consent of institutional mortgagees shall be obtained prior to (1) the subdivision of any Unit; (2) any change in the percentage of ownership of the common surplus or common elements; (3) any change in the percentage of sharing the common expense or assessments; (4) any change in the voting rights; ~~(5) any change in the insurance provisions;~~ and ~~(6)~~ termination of the Condominium to the extent required by the Condominium Act.

**8.28.2. CERTIFICATE OF AMENDMENT:** A copy of each amendment shall be attached to a certificate certifying that the Amendment was duly adopted, which certificate shall be executed by the officers of the condominium association with the formalities of a deed. The Amendment shall be effective when such certificate and copy of the Amendment are recorded in the Public Records of Sarasota County, Florida.

**9.3 FORMAT:** Proposals to amend existing provisions of the Declaration shall contain the full text of the provision to be amended. New words shall be inserted in the text and underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying "SUBSTANTIAL REWORDING OF DECLARATION. SEE PROVISION..... FOR PRESENT TEXT."

~~9. BYLAWS. The operation of the Condominium property shall be governed by the Bylaws of Bella Costa, Inc., a copy of which is attached as Exhibit "D" and incorporated herein by reference.~~

~~9.1 The Bylaws may be amended in accordance with the provisions more fully set out in the Bylaws.~~

~~9.2 No modification or amendment to these Bylaws shall be deemed valid unless set forth in a duly recorded Amendment to this Declaration in accordance with the formalities set forth in Section 9 above.~~

~~10. OPERATION OF ASSOCIATION. The operation of the Condominium shall be vested in Bella Costa, Inc., a non-profit corporation. The Amended Articles of Incorporation are attached as Exhibit "E."~~

**ARTICLE X. ASSESSMENTS AND COLLECTION  
COMMON EXPENSES, LIABILITIES, LIENS AND PRIORITIES, INTEREST AND  
COLLECTION.**

The Board of Directors of the Association shall approve an annual budget in advance for each fiscal year, which budget shall project anticipated income and estimated common expenses as required by the Condominium Act and the Bylaws. In addition to the authority provided in the Bylaws and the Condominium Act, the making and collection of assessments against Unit Owners for Common Expenses shall be subject to the following provisions:

~~A unit owner, regardless of how title is acquired, shall be liable for his share of all common expenses coming due while he is the owner of the unit. In a voluntary conveyance, the grantor~~

~~shall be jointly and severally liable with the grantee for the unit share of unpaid common expenses up to the time of such voluntary conveyance.~~

**10.1. SHARE OF COMMON EXPENSES.** A Unit Owner's share in the common expenses for this condominium shall be as set forth in Article VIII, and shall be assessed against the owners in accordance with the Association's budget, and shall be due and payable as required in the Bylaws. A unit owner, regardless of how title is acquired, including without limitation, a purchaser at a judicial sale, shall be liable for all assessments coming due while he or she is the owner of a unit. Additionally, except as may be limited by the Condominium Act, a unit owner is jointly and severally liable with the previous owner for all unpaid assessments and other amounts that came due up to the time of transfer of title, without prejudice to any right the owner may have to recover from the previous owner the amounts paid by the owner. A first mortgage holder's liability for assessments and other monetary amounts due to the Association that accrued prior to the first mortgage holder taking title to the unit is limited only to the extent required by the Condominium Act.

**10.2. SPECIAL ASSESSMENTS:** In addition to the Annual Assessment, Owners shall be obligated to pay such Special Assessments as shall be levied by the Board in accordance with the Bylaws against their units either as a result of: (i) extraordinary items of expense; (ii) the failure or refusal of other Owners to pay their Annual Assessment; (iii) shortfalls in the budget; or (iv) such other reason or basis determined necessary by the Board.

**10.3. NON-WAIVER OF ASSESSMENTS:** The liability for common expenses may not be avoided by waiver of the use or enjoyment of any common elements, the leasehold property, or by abandonment of the unit.

**10.4. INTEREST AND LATE FEES:** A unit share of the common expenses and installments thereon, not paid within 15 days of due date, shall bear interest from the date when due until paid ~~at a rate of up to eighteen percent (18%) per year. at the highest rate allowed by law.~~ In addition to interest, the Association may impose an administrative late fee of up to the greater of \$25.00 or five percent (5%) of each delinquent installment, unless a higher late fee is allowed by the Condominium Act and approved by the Board. Payments shall be applied in accordance with the provisions of the Bylaws and the Condominium Act.

**10.5. LIEN FOR ASSESSMENTS:** The Association shall have a lien on each condominium parcel for the unit share of any unpaid common expenses, and interest thereon against the owner of such condominium parcel until paid. Such lien shall ~~also include secure all unpaid assessments that are due and accrue after the claim of lien is recorded and through the entry of final judgment, as well as interest, late fees, and all~~ reasonable attorney fees ~~and costs~~ incurred by the Association incident to the collection of such common expenses or enforcement of such lien. Such lien shall be executed in and recorded in the Public Records of Sarasota County, Florida, in the manner provided by law, ~~but such lien shall be subordinate to the lien of any mortgage or other liens recorded prior to the time of the recording of the claim of lien by the Association or its assign.~~ The lien is effective from and shall relate back to the recording of the original declaration of condominium for this condominium. However, as to first mortgages of record, the lien is effective from and after recording of the lien.

**10.6. LIEN FORECLOSURE:** Liens for the unit share of common expenses may be foreclosed by suit brought in the name of the Association in a like manner as a foreclosure of mortgage on real property as more fully set forth in Chapter 718, *Florida Statutes*. The Association may also bring an action to recover a money judgment for the unpaid assessments without

waiving any claim of lien. The Association shall have the right to collect reasonable attorneys' fees and costs while foreclosing any lien or seeking a money judgment for the unpaid assessments.

~~11.5~~ **10.7. LESSOR LIEN RIGHTS:** The Lessor, under the terms of the lease with the Condominium Association as Lessee, shall acquire a lien against each individual condominium parcel in accordance with the provisions of the lease which is attached hereto as Exhibit "CB." Such liens shall be executed and recorded in the Public Records of Sarasota County, Florida, in the same manner as provided for a lien of the Association referred to in ~~Paragraph 11.3~~ above, and such lien shall be subordinate to the lien of any mortgage or other liens recorded prior to the time of the recording of the claim of lien by the Lessor. ~~11.6~~ ~~The~~ Lien provided for in this Section ~~11.5 above~~ may be foreclosed in the same manner as liens acquired by the Association ~~as provided in Section 11.4 above.~~

**10.8. TENANT RENT DEMAND:** In the event that an owner is delinquent in paying any monetary obligation due to the Association, the Association may demand that the tenant pay its rent directly to the Association, pursuant to procedures set forth in the Condominium Act and as may otherwise be provided herein.

**10.9. SUSPENSION OF USE RIGHTS:** If an owner is delinquent for more than ninety (90) days in paying any monetary obligation due to the Association, unless a different time frame is provided by the Condominium Act, the Association may suspend the right of an owner or the owner's occupant, tenant, licensee, or invitee to use common elements, common facilities, or any other Association property until the monetary obligation is paid. The suspension does not apply to common elements needed to access the unit, utility services provided to the unit, parking spaces, or elevators. Suspensions of use rights must be approved at a properly noticed board meeting, and upon approval by the Board, the association must notify the unit owner and affected tenants or guests in writing by mail or hand delivery.

**10.10. SUSPENSION OF VOTING RIGHTS:** The Association may suspend the voting rights of a member due to nonpayment of any monetary obligation due to the Association which is more than ninety (90) days delinquent, unless otherwise provided in the Condominium Act, and the suspension shall end upon full payment of all obligations currently due or overdue the Association. A voting interest allocated to a unit which has been suspended by the Association shall be subtracted from the total number of voting interests in the Association, which shall be reduced by the number of suspended voting interests when calculating the total percentage of all voting interests available to take or approve any action, and the suspended voting interests shall not be considered for any purpose, including, but not limited to the percentage of voting interests necessary to constitute a quorum, the percentage or number of voting interests required to conduct an election, or the percentage or number of voting interests required to approve an action under this chapter or pursuant to the declaration, articles of incorporation, or bylaws. Suspensions of voting rights must be approved at a properly noticed board meeting, and upon approval by the Board, the association must notify the unit owner in writing by mail or hand delivery.

~~11.7. Late fee: The Association at its discretion may charge a late fee of 5% of the Assessment due or \$25.00 or as otherwise permitted by law, whichever is greater for all assessments not paid on or before fifteen (15) days after the due date.~~

~~11.8. All payments upon account shall be first applied to interest, then to late fees, then to attorneys' fees and costs and then to the assessments payment first due. All interest collected shall be credited to the common expense account.~~

~~11.9. Acceleration of Assessment Installments Upon Default. If a unit owner shall be in default in the payment of an installment upon an assessment, the Board of Directors may accelerate the remaining installments of the assessment upon notice to the unit owner, and then the unpaid balance of the assessment shall come due upon the date stated in the notice, but not less than ten (10) days after delivery of the notice to the apartment owner, or not less than twenty (20) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur.~~

~~12. MAINTENANCE: Limitation Upon Improvement.~~

## **ARTICLE XI. MAINTENANCE, ALTERATION, AND IMPROVEMENTS**

**12.411.1 ASSOCIATION MAINTENANCE:** The maintenance of the common elements and any property owned or leased by the Association shall be the responsibility of the association.

**12.2(a)** The person or persons entitled to the use of limited common elements shall be responsible for maintaining same in good repair at his or their expense. If the user fails to maintain his portion of the limited common elements in good repair the Association shall be entitled to make the repairs and charge the cost to the user and if he fails to pay, it shall become a lien against the users condominium unit which may be collected in the same manner as provided in Section 11.4.

**12.311.2- ALTERATIONS:** There shall be no material alteration or substantial additions to the common elements except in a manner provided herein.

**12.411.3- UNIT OWNER ALTERATIONS:** No unit owner shall do any thing or make any alteration, addition or improvement to his unit or to the common element, which would jeopardize the safety or soundness or the exterior appearance of the building containing his unit or impair any easement. Except as otherwise provided herein, no unit owner shall ~~materially alter, change the appearance of, or substantially~~ add to or improve the exterior of the unit or the common elements without the prior approval of the Board of Directors and sixty-six and two-thirds (66 2/3rds) vote of the members of the Association present at a members' meeting in person or by proxy. Notwithstanding the foregoing the Board shall have the authority to adopt design and appearance standards for the unit's exterior without requiring unit owner approval. For commonly approved ~~non-material~~ alterations for which the Board of Directors has adopted design and appearance standards, unit owners shall first obtain approval of the Board of Directors by demonstrating that the proposed alteration complies with the standards. Unit owners contemplating any other alteration, addition or improvement shall first obtain approval of the Board of Directors ~~based on proof, including drawings, and an architect's or engineer's certificate if necessary, that the alteration would not constitute a material alteration.~~

**12.511.4 AIR CONDITIONING SYSTEM MAINTENANCE:** Notwithstanding the above, an air conditioning system placed upon the common elements of the condominium property shall remain the property and always be the responsibility of the unit owner, with the maintenance, repair and replacement of said air conditioning system being an obligation of the unit owner and not as part of the common expense of the Association.

~~12.611.5~~ **ALTERATION AND IMPROVEMENTS:** ~~After the completion of all the improvements included in the common elements which are contemplated by this Declaration, there~~ There shall be no material alteration of, or additions to or improvement of the common elements without the prior approval in writing of ~~66 2/3rds of the total voting interest of the Association~~ a majority of the voting interests present at a membership meeting in person or by limited proxy. ~~Notwithstanding anything herein to the contrary, the Board of Directors may, by proper action in accordance with the Bylaws of the Association, cause to be made necessary repairs and maintenance of Common Elements without Unit Owner vote, as herein described.~~ There shall be no change in the shares and rights of a unit owner in the common elements which are altered or further improved, although the maintenance charge may be adjusted if necessary.

~~12.711.6~~ **SATELLITE DISHES:** ~~No satellite dish shall be constructed or installed on the common elements or upon any condominium property, except as may be required by applicable state or federal statutes, codes, or regulations. The Board reserves the right to regulate the installation of satellite dishes to the fullest extent permitted by such laws. Subject to standards to be set at the discretion of the Board and upon receipt of written Board approval, unit owners may install satellite television antennas, but only upon the roof of his or her building. A satellite antenna placed upon the common elements of the condominium property shall remain the property and always be the responsibility of the unit owner, with the maintenance, repair and replacement of said satellite antenna being an obligation of the unit owner and not a part of the common expenses of the Association. In the event the Association requires the satellite antenna to be removed for purposes of common element maintenance, repair and replacement, the unit owner upon such written notice shall promptly remove the satellite antenna at his cost. If the unit owner transfers his unit to a third party and the satellite antenna remains on the roof, the obligations contained herein are transferred to each subsequent owner of the unit. Possession of a satellite antenna in no way relieves a unit owner from his share of the common expenses that include bulk cable television, internet, or other communication services provided by the Association.~~

**11.7. UNIT OWNER MAINTENANCE:** Unit owners shall maintain in good condition and repair his unit and all interior surfaces within or surrounding his unit (such as the surfaces of the walls, ceilings, floors) whether or not part of the unit or common elements, and maintain and repair the fixtures therein and pay for any utilities which are separately metered to his unit. The unit owner shall be responsible for all plumbing pipes and fixtures, and all electronic wiring and fixtures within the boundaries of the Unit.

(a) The unit owner is responsible for maintaining, repairing, and replacing all screens, framing, and rails on the lanai or balcony serving the particular unit, as well as any sliding glass door entering onto such lanai or balcony.

(b) The unit owner is responsible for maintaining, repairing, and replacing all screen doors, windows and window glass, frames, and hardware serving the unit.

(c) The unit owner shall be responsible for maintaining, repairing, and replacing any deck adjacent to the unit. Any changes must be approved by the Board in advance.

(d) The Association's obligation to insure any portion of the unit or the building shall be limited to such property as originally installed, or replacement of like kind and quality in accordance with the original plans and specifications of the building. The Association is not responsible for the costs of any upgrade in materials or improvements that may be approved by the Association and provided by the owner or former owner of a unit, and the Association assumes

no additional obligation to insure, maintain, repair, or replace portions of the building except to the extent required by law.

(e) If the unit owner fails to maintain, repair, or replace any item for which they are responsible for maintaining, or if the owner makes an alteration to the unit or the common elements that is not approved by the Board, the Association has the authority to undertake the repairs and assess all costs incurred against the unit owner and pursue any and all enforcement options provided by applicable law and the Association's governing documents.

### 13. COMMON EXPENSES AND COMMON SURPLUS.

~~13.1 Funds for the payment of common expenses shall be assessed against unit owners in the proportions or percentages of sharing common expenses provided in this Declaration.~~

~~13.2 The common surplus shall be owned by unit owners in the shares provided in this Declaration.~~

### 14. EASEMENTS.

~~15.1 Owners of units shall have as an appurtenance thereto a perpetual easement for ingress and egress to and from their unit over stairs, terraces, balconies, elevators, walks, and other common elements.~~

~~15.2 All condominium property shall be subject to perpetual easements for encroachments presently existing or which may hereafter be caused by settlement or movement of the building or minor inaccuracies in construction, which easements shall continue until such encroachment no longer exists.~~

~~15.3. Easements. The Board of Directors has the authority, without the joinder of any unit owner, to grant, modify, or move any easement if the easement constitutes part of or crosses the common elements or Association property. This subsection does not authorize the Board of Directors to modify, move, or vacate any easement created in whole or in part for the use or benefit of anyone other than the unit owners, or crossing the property of anyone other than the unit owners, without the consent or approval of those other persons having the use or benefit of the easement, as required by law or by the instrument creating the easement. Nothing in this subsection affects the minimum requirements or the powers enumerated in The Condominium Act.~~

### 15. MEMBERSHIP IN ASSOCIATION.

~~15.1 Bella Costa, Inc., a non-profit Florida corporation, was chartered to perform the acts and duties desirable for apartment house management for unit and common elements, and to levy and enforce collection of assessments necessary to perform acts and duties as aforesaid.~~

~~15.2 All unit owners shall automatically be members of the Association and said membership shall terminate when they no longer own said units.~~

~~15.3 Where a unit is owned by more than one owner, such owners shall collectively be entitled to one vote in accordance with voting privileges set forth in the Bylaws of Bella Costa, Inc.~~

~~15.4 The share of a member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as appurtenant to his apartment.~~

#### ~~16. ANNUAL BUDGET AND COLLECTION OF ASSESSMENTS.~~

~~16.1 The Board of Directors of the Association shall approve an annual budget in advance for each fiscal year, which budget shall project anticipated income and estimated common expenses.~~

~~16.2 The estimated common expenses shall be assessed against each apartment in accordance with the formula heretofore set forth in Paragraph 8 above. The amount assessed against each unit shall be payable on the first day of each quarter. In addition, the Association has the power to levy equal special assessments against each unit if a deficit should develop in the treasury for the payment of common expenses.~~

### ~~17. ARTICLE XII. USE RESTRICTIONS.~~

The use of the property of the condominium shall be in accordance with the following provisions ~~as long as the condominium exists and the apartment buildings in useful condition exist upon the land.~~

~~12.1 SINGLE FAMILY RESIDENTIAL USE:~~ The condominium property shall be used only for single family residences and for the furnishing of services and facilities herein provided for the enjoyment of such residences. Each of the units for which provision is made by the condominium documents shall be occupied only by a single family as its residence and for no other purpose. ~~No part of the Condominium Property shall be used or caused to be used or allowed for any business, commercial, manufacturing, mercantile, storing, or vending or other non-residential purpose unless otherwise provided herein. This restriction shall not be construed to prohibit any Owner from leasing the unit and receiving income from the unit, or from keeping his personal, business or professional records in his Unit, or from handling his personal, business or professional telephone calls or written electronic correspondence in and from his Unit provided such activities comply with applicable local ordinances and do not unreasonably disrupt the residential nature of the building, or make it obvious that a business is being conducted. Such uses are expressly declared customarily incident to use.~~

~~17.4-12.2. LIMITATION ON OWNERSHIP:~~ No person, corporation, or other type of entity shall be allowed to have an ownership interest in more than two (2) units in the condominiums ~~administered by Bella Costa, Inc. for which the condominium association is Bella Costa, Inc.~~ For purposes of this provision, ownership interest in a unit includes any ownership interest in an entity (such as a corporation, limited liability company, partnership or any other type of business entity) or functioning as a trustee of a trust owning a unit. ~~Such entities or trusts shall be required to disclose the identities of all owners having an ownership interest in the unit.~~

~~17.2 12.3 NUISANCES:~~ No nuisances shall be allowed upon the condominium property which interfere with the peaceful possession and proper use of the property by its residents. All parts of the property shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage allowed to accumulate, nor any fire hazard allowed to exist. ~~The unit owner shall not permit or suffer anything to be done or kept in his/her unit which will obstruct or interfere with the~~

rights of other unit owners or annoy them by unreasonable noises, or otherwise, nor shall the unit owners commit or permit any nuisance, immoral or illegal acts in or about the Condominium property. Sounds, lights, odors, smoke, visual appearances, or conduct or use of the units or common property caused or committed by any owner, tenant, guest, their vehicles, musical instruments/stereos/televisions, or other conditions that become an unreasonable annoyance, or otherwise unreasonably interfere with the peaceful possession and proper use of the condominium property by residents or guests shall be prohibited. The Board shall have the discretion to determine what conduct or conditions constitute nuisances in the community, and all nuisance activity must be immediately ceased upon notice from the Association. The owner shall be responsible for any and all costs or expenses associated with nuisances caused by the owner, tenant, occupant or guest of the unit. The Board shall have the authority to adopt reasonable rules and regulations regarding noise and nuisance abatement.

**17.312.4 COMPLIANCE WITH GOVERNMENTAL REGULATIONS:** No immoral, improper, offensive, or unlawful use shall be made of the condominium property, nor any part thereof, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification, or repair of the condominium property shall be the same as the responsibility for the maintenance and repair of the property concerned.

**17.4 12.5 LEASING:** Entire units may be leased provided the occupancy is only by the lessee, his family, his servants, and guests, and provided such lease receives the advance written approval of the Board or its designated board member, committee, or agent as further described herein. The minimum term of a lease shall be three (3) months. Leasing and occupancy of units are subject to additional application and approval requirements contained herein. Any occupant of a unit that occupies a unit for more than thirty (30) days in a calendar year shall be deemed a tenant and is subject to all application and approval requirements regardless of whether a written lease agreement exists or whether the owner receives compensation in exchange for the right to occupy the unit.

**(a) Subleasing and Transient Occupancy:** Subleasing is prohibited. Short-term use for occupancy, subletting, renting or leasing, hosting, or licensing for the purposes of short-term (whether overnight use or for a duration less than the minimum leasing term requirements contained in the Declaration), transient occupancy of all or any part of a unit or individual rooms, which may be facilitated through the use of any short-term vacation or hotel/motel websites, as advertised directly by the owner or through third-party internet websites or media, or any other similar method is prohibited. Such occupancy shall not be considered to be "guest" occupancy that may otherwise be permitted by any rules and regulations adopted by the board regarding guests known to and invited by the owner or approved resident.

**17.5 12.6 RULES AND REGULATIONS:** Reasonable rules and regulations concerning the use of the units and the condominium property may be made and amended from time to time by the ~~Association Board in the manner provided by its Articles of Incorporation and Bylaws.~~ Copies of such rules, regulations and amendments shall be furnished by the Association to all apartmentUnit owners and residents of the condominium upon request.

~~17.7. No owner shall rent his apartment without first obtaining the approval of the Board of Directors. Rentals will be approved for a minimum period of three (3) months.~~

~~12.7 **PETS.** One (1) indoor cat may be maintained within a unit. No additional animals are permitted. No four legged animals may be kept as pets in the units of the Condominium. Any such pet kept in the Condominium units at the time of the adoption of this amendment are not to be replaced upon their death or removal, except that the Board may grant a unit owner a compassionate exception for one housecat, provided that the following conditions are agreed to: (1) it is prohibited for the animal to be outside the unit except in transit within a cage or other container; (2) two substantiated complaints of any nuisance caused by the animal, whether noise, odor, running loose or other, will be cause for withdrawal of the exception; and (3) once the exception is withdrawn for any reason the owner will have thirty (30) days to remove the animal for [sic] suffer a \$25.00 per day fine assessed by the Board of Directors.~~

~~12.8 **INSURANCE RATES.** Unit owners shall not permit or suffer anything to be kept in his unit which will increase the insurance rates on his unit or the common elements.~~

~~12.9 **RULES AND REGULATIONS.** Unit owners must conform to and abide by the Bylaws and the uniform rules and regulations in regard to the use of the unit and common elements which may be adopted in writing from time to time by the Board of Directors of the Association, and to see that all persons using owner's property by, through, or under him do likewise.~~

~~12.10 **BOARD ACCESS.** Unit owners must allow the Board of Directors or the agents and employees of the Association to enter any unit for the purpose of maintenance, inspection, repair, or replacement of the improvements within units or the common elements, or in case of emergency threatening units or the common elements, or to determine compliance with these restrictions, reservations, covenants, conditions, and easements and Bylaws of the corporation.~~

~~12.11 **SIGNS.** Unit owners shall show no sign, advertisement, or notice of any type on the common elements of his unit and erect no exterior antennas and aerials except as provided in uniform regulations promulgated by the Association.~~

~~17.8-12.12 **PARKING:** Unit owners shall have exclusive use of parking spaces with numbers corresponding to that of their unit. No unit owner shall park overnight on the common elements any trailer, boat trailer, or vehicle over ~~two~~ six (6) tons Gross vehicle Weight (GVW), or any motor vehicle that does not meet Original Equipment Manufacturers (OEM) standards for noise. The Board of Directors shall have the authority to adopt additional rules and regulations regarding the condition, size and types of vehicles that will be permitted, prohibited, or otherwise regulated in the community.~~

~~12.13. **FLOORING:** No hard-surfaced floor coverings including, but not limited to, wood, tile, laminate, vinyl, marble or stone or similar hard surfaces shall be installed in any unit located above the first floor unless same is installed with adequate sound proofing material and moisture barrier which meets the requirements adopted by the Board from time to time. Prior to installation of such floor coverings, the Owner must submit an application to the Board providing the information and samples necessary for the Board to determine whether the proposed floor covering and appropriate sound and/or moisture barriers meet the Board's sound absorption~~

and/or moisture barrier standards. Any such flooring that is installed in violation of this provision, or that does not meet the minimum standards for sound-absorption or a moisture barrier at the time the flooring was installed must be immediately removed upon notice from the Association, at the owner's sole expense.

~~**18. TITLE TO PROPERTY:** The Association has the power to acquire title to property or otherwise hold, convey, lease, and mortgage Association property for the use and benefit of its members upon approval of 75% of the total voting interests of the Association. Except, there shall be no limitation on the Association's right to purchase a unit at a foreclosure sale resulting from the Association's foreclosure of its lien for unpaid assessments or to take title by deed in lieu of foreclosure.~~

### ARTICLE XIII. SALES, TRANSFERS, LEASES, AND OCCUPANCY

~~**19. CONVEYANCES.** In order to assure a community of congenial residents and thus protect the value of the units, the sale, transfer, leasing and occupancy and mortgaging of units by any owner other than the Developer shall be subject to the following provisions:~~

~~**19.1 13.1. APPROVAL REQUIRED:** No unit owner may dispose of a unit or any interest therein by sale, or lease a unit without prior approval of the Board of Directors of the Association, except where such sale is to a member of the Association. If the purchaser is a corporation, the approval may be conditioned upon the approval of all the intended occupants of the unit. The approval of the directors shall be obtained in the manner hereinafter provided, except the provisions of this section shall not apply to a unit that transfers through inheritance, or any transfer resulting from a lien or mortgage foreclosure or a tax deed sale, to or purchase by a bank, life insurance company, real estate investment trust or limited partnership regularly engaged in mortgage financing, or a savings and loan association which acquires its title as a result of owning a first mortgage upon the unit concerned, and this shall be so whether the title is acquired by deed from the mortgagor or through foreclosure proceedings; nor shall such provision apply to a transfer or sale by a bank, life insurance company, real estate investment trust or limited partnership regularly engaged in mortgage financing, or savings and loan association which so acquires its title-; however, all subsequent transfers, leases, and occupancy after receiving title through inheritance and/or foreclosure shall be subject to the approval, transfer, and occupancy requirements of this Declaration.~~

~~**19.2 13.2. APPLICATION AND APPROVAL REQUIREMENTS: Notice to Directors.** A unit owner intending to make a bona fide sale or transfer of ownership of his unit, or any interest therein, or that desires to lease his or her unit shall give notice to the Directors of such intention, together with the name and address of the intended purchaser, such other information as the Directors may reasonably require, and the terms of the proposed transaction. The information must be provided on an application form approved by the Board, and must be provided not less than thirty (30) days in advance of the proposed sale, transfer, lease, or occupancy. For purposes of the application and approval requirements, all occupants of a Unit, regardless of whether there is a lease between the owner and the occupant, and regardless of whether the owner receives payment from the occupant for the right to occupy the unit, must go through the same application and approval process and shall be deemed to be a tenant for purposes of this article if such occupant will be occupying the unit for more than thirty (30) days in a twelve (12) month period~~

~~19.3~~ **13.3. APPROVAL OF DIRECTORS:** Within thirty (30) days after receipt of such notice and application, the Directors, or the designated board member, committee, or agent, must either approve or disapprove the transaction or furnish a purchaser approved by the Directors who will accept the transaction upon terms as favorable to the seller as the terms stated in the notice, except that a purchaser furnished by the directors may have not less than 30 days subsequent to the date of approval within which to close the transaction, and except that the approval of a corporation may be conditioned as elsewhere stated. The approval of the Directors shall be in recordable form and shall be delivered to the purchaser and recorded in the Public Records of Sarasota County, Florida.

**13.4. APPROVAL CRITERIA:** When considering such application, consideration shall be given to the character and financial responsibility of the proposed purchaser, transferee, lessee or occupant, or any other lawful and reasonable criteria established by the Board. The Association and/or its authorized agents shall have the authority to perform credit and/or criminal background checks on all proposed purchasers, tenants, and occupants, and may deny the sale, lease, occupancy, or other transfer based on the results of such background checks. In addition to the ability to deny an application based on the results of background checks or for other criteria adopted by the Board from time to time, an application may be denied if the owner is delinquent in any monetary obligation owed to the Association, or if the proposed owner, tenant, or occupant has a history of disruptive, violent, or nuisance behavior in this or in other communities, or has otherwise evidenced a disregard for rules, regulations, or rights of other residents.

~~19.4~~ Mortgage. No member may mortgage his unit or any interest therein without the approval of the Directors, except to a bank, life insurance company, real estate investment trust or limited partnership regularly engaged in mortgage financing, or a savings and loan association. The approval of any other mortgagees may be upon conditions determined by the directors or may be arbitrarily withheld.

~~19.5~~ **13.5. TRANSFER FEE AND DEPOSIT:** Approval of the Association may in any event be conditioned upon approval of the occupants of a unit, and only entire units may be leased. The Association may charge the owner for a transfer fee, which charge shall not exceed the greater of one-hundred and fifty dollars (\$100.00/150.00) or as otherwise provided by law unless a higher amount is allowed by the Condominium Act and approved by the Board. The Board shall have the authority to require a prospective tenant to provide a security deposit (in an amount up to the highest amount allowed by the Condominium Act) into an escrow account to be maintained by the Association to protect against damages to the common elements or association property.

~~19.6~~ **13.6. APPROVAL OF CORPORATE OR OTHER ENTITY OWNER OR PURCHASER:** Inasmuch as the Units may be used only for residential purposes, and a corporation or other type of legal entity (such as a partnership, limited liability company, etc.) cannot occupy such a Unit for such use, if the Unit Owner or purchaser of a Unit is a corporation such an entity, the approval of ownership by the corporation may be conditioned upon requiring that all persons occupying the Unit be also approved by the Association.

~~19.7~~ **13.7. TENANTS' RIGHT TO USE COMMON ELEMENT:** When a unit is leased, a tenant shall have all use rights in the Association property and those common elements otherwise readily available for use generally by unit owners and the unit owner shall not have such rights

except as a guest. Nothing in this subsection shall interfere with the access rights of the unit owner as a landlord pursuant to Chapter 83, F.S. Florida Statutes. The Association shall have the right to adopt rules to prohibit dual usage by a unit owner and a tenant of Association property and common elements otherwise readily available for use generally by unit owner.

**13.8. DISAPPROVAL OF ASSOCIATION:** An application for sale, transfer, lease, or occupancy may be denied with cause for failure to meet the Association's ownership and/or occupancy standards, or for any other lawful reason. In the event that a sale, lease, or occupancy is disapproved by the Association in accordance with this restriction, the Association shall have no obligation to purchase the unit or to provide an alternative transferee, tenant, or purchaser.

**13.9. GUESTS:** The Board of Directors shall have the authority to adopt rules and regulations regarding occupation of the units by guests, friends, or relatives. Owners allowing overnight guests to occupy the unit while the owner is not present may be required to notify the Association in advance in accordance with notification policies and procedures approved by the Board, and such guests shall be limited to thirty (30) days in a twelve-month period. The Board may require all such individuals be registered with the Association so that the Board has information regarding who is authorized to occupy the unit during such visits, or other reasonable rules and regulations the Board deems necessary to regulate guests. The unit owner is responsible for the guests conduct and for any damages to the common elements caused by such guests.

~~20. **OBLIGATIONS OF MEMBERS.** In addition to other obligations and duties heretofore set out in this Declaration, every unit owner shall:~~

~~20.1 Promptly pay his share of assessments levied by the Association.~~

~~20.2 Maintain in good condition and repair his unit and all interior surfaces within or surrounding his unit (such as the surfaces of the walls, ceilings, floors) whether or not part of the unit or common elements, and maintain and repair the fixtures therein and pay for any utilities which are separately metered to his unit.~~

~~20.3 Not use or permit the use of his unit for any purpose other than as a single family residence and maintain his unit in a clean and sanitary manner.~~

~~20.4. **Pets.** No four legged animals may be kept as pets in the units of the Condominium. Any such pet kept in the Condominium units at the time of the adoption of this amendment are not to be replaced upon their death or removal, except that the Board may grant a unit owner a compassionate exception for one housecat, provided that the following conditions are agreed to: (1) it is prohibited for the animal to be outside the unit except in transit within a cage or other container; (2) two substantiated complaints of any nuisance caused by the animal, whether noise, odor, running loose or other, will be cause for withdrawal of the exception; and (3) once the exception is withdrawn for any reason the owner will have thirty (30) days to remove the animal for [sic] suffer a \$25.00 per day fine assessed by the Board of Directors.~~

~~20.5 Not permit or suffer anything to be kept in his unit which will increase the insurance rates on his unit or the common elements.~~

~~20.6 Conform to and abide by the Bylaws and the uniform rules and regulations in regards to the use of the unit and common elements which may be adopted in writing from time to time~~

~~by the Board of Directors of the Association, and to see that all persons using owner's property by, through, or under him do likewise.~~

~~20.7 Allow the Board of Directors or the agents and employees of the Association to enter any unit for the purpose of maintenance, inspection, repair, or replacement of the improvements within units or the common elements, or in case of emergency threatening units or the common elements, or to determine compliance with these restrictions, reservations, covenants, conditions, and easements and Bylaws of the corporation.~~

~~20.8 Show no sign, advertisement, or notice of any type on the common elements of his unit and erect no exterior antennas and aerials except as provided in uniform regulations promulgated by the Association.~~

~~20.9 Plumbing and electrical repairs within a unit shall be paid for and be the financial obligation of the owners of the unit; whereas, the corporation shall pay for and be responsible for repairs within the common elements.~~

## 22. Enforcement of Maintenance.

~~In the event the owner of a unit fails to maintain it as required above, the Association or any other unit owner shall have the right to proceed in a court of equity to seek compliance with the foregoing provisions, or the Association shall have the right to assess the unit owner and the unit for the necessary sums to put the improvement within the unit in good condition. After such assessment, the Association shall have the right for its employees or agent to enter the unit and do the necessary work to enforce compliance with the above provision. Such assessment shall be collectable by means of a Condominium Claim of Lien as provided for in this Declaration and the Condominium Act. The Association shall have the right to collect reasonable attorneys' fees and costs if it is the prevailing party in a court of law or equity including costs and fees incurred in Appellate proceedings.~~

## 23. INSURANCE.

### ARTICLE XIV. INSURANCE

The insurance other than title insurance that shall be carried upon the condominium property of the ~~apartment~~Unit owners shall be governed by the following provisions:

~~23.1. All insurance policies upon the condominium property shall be purchased by the Association. The named insured shall be the Association individually and as agent for the apartment owners, without naming them, and as agent for their mortgagees. Provision shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of unit owners. Such policies shall provide that payments by the insurer for losses shall be made to the insurance trustee designated below, and all policies and their endorsements shall be deposited with the insurance trustee. Unit owners may obtain coverage at their own expense upon their personal property and for their personal liability and living expense. The Association shall not insure unit floor coverings, wall coverings, or ceiling coverings, and, as to insurance contracts entered into after July 1, 1992, shall not insure the following equipment if it is located within a unit and the unit owner is required to repair or replace such equipment: electrical fixtures, appliances, air conditioner or heating equipment, water heaters, or built-in cabinets.~~

**14.1. LIABILITY INSURANCE:** The Board of Administration of the Association shall obtain liability and property damage insurance covering the Common Elements of the condominium and insuring the Association, the unit owners and the common owners, as its and their interests appear, in such amounts and providing such coverage as the Board may determine from time to time. Premiums for the payment of such insurance shall be paid by the Association, and such premiums shall be charged as a common expense.

**14.2. CASUALTY INSURANCE:** The Association shall obtain and maintain adequate property insurance as provided by Section 718.111(11) of the Condominium Act, as it may be amended from time to time. The property insurance shall cover the full insurable value, replacement cost, or similar coverage, and must be based on the replacement cost of the property to be insured as determined by an independent insurance appraisal or update of a prior appraisal. The replacement cost must be determined at least once every thirty-six (36) months, unless otherwise provided by law. The property insurance must cover all portions of the condominium property as originally installed or replacement of like kind and quality, in accordance with the original plans and specifications, and all alterations or substantial additions to the common elements or Association property. The coverage must exclude all personal property within the unit or limited common elements, and floor, wall and ceiling coverings, electrical fixtures, appliances, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of the unit and serve only such unit. Such property and any insurance thereon are the responsibility of the unit owner.

**(a)** Unless otherwise required by law, any portion of the condominium property that must be insured by the association against property loss which is damaged by an insurable event shall be reconstructed, repaired, or replaced as necessary by the association as a common expense. In the absence of an insurable event, the association or the unit owners shall be responsible for the reconstruction, repair, or replacement as determined by the maintenance provisions of the declaration or bylaws.

**(b)** All property insurance deductibles and other damages in excess of property insurance coverage under the property insurance policies maintained by the association are a common expense of the condominium, except for damages caused by the intentional conduct, negligence, or failure to comply with the Association's governing documents by the owner, the members of his or her family, unit occupants, tenants, guests, or invitees, and as limited by the Condominium Act.

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

**(d)** The Association is not obligated to pay for any reconstruction or repair expenses due to property loss to any improvements installed by a current or former owner of the unit or by the developer if the improvement benefits only the unit for which it was installed and is not part of the standard improvements installed by the developer on all units as part of original construction, whether or not such improvement is located within the unit.

**14.3. FIDELITY BONDING/INSURANCE:** The Association shall maintain fidelity bonding or insurance on all persons who control or disburse funds of the Association, as defined by the Act.

Such bonding or insurance must cover the maximum funds that will be in the custody of the Association or its management company at any one time. The premiums on such bonds shall be a Common Expense.

**14.4. OTHER INSURANCE:** Such other insurance as the Board of Administration shall determine from time to time to be desirable.

**14.5. UNIT OWNER INSURANCE:** Each individual unit owner shall be responsible for purchasing, at his/her own expense, liability insurance to cover accidents occurring within his/her own unit and for purchasing casualty insurance upon his/her own personal property. A unit owner shall be liable for injuries or damage resulting from an accident in his own unit to the same extent and degree that the owner of a house would be liable for an accident occurring within the house.

**14.6. DESTRUCTION AND RECONSTRUCTION:** In the event of casualty to the improvements insured by the Association, the Association shall reconstruct the improvements in accordance with the original plans and specifications unless otherwise approved by the Board. The Association shall utilize proceeds of insurance for such reconstruction, unless the owners approve of a termination of all or a part of the condominium property and/or units in accordance with the termination provisions of the Condominium Act and this Declaration. In the event of a termination of the condominium, all insurance funds or other proceeds shall be distributed in accordance with the unit owners' ownership interest in the common elements, the Condominium Act, and the plan of termination approved by the members.

(a) **OWNER RESPONSIBILITY:** Unit Owners are responsible for all damages to personal property and portions of the unit that the Association is not obligated to insure or maintain.

(b) **ASSESSMENT FOR RECONSTRUCTION AND REPAIR:** If the proceeds of insurance are not sufficient to defray the estimated cost of reconstruction and repair by the Association or if at any time during reconstruction and repair, or upon completion of reconstruction or repair, the funds for payment of the cost reconstruction or repair are insufficient, the Board of Directors shall have the authority to impose special assessments, in amounts sufficient to provide funds for the payment of such costs.

~~The Association in addition to other items, shall not insure unit floor coverings, wall coverings, or ceiling coverings, and, as to insurance contracts entered into after July 1, 1992, shall not insure the following equipment if it is located within a unit and the unit owner is required to repair or replace such equipment: electrical fixtures, appliances, air conditioner or heating equipment, water heaters, or built-in cabinets.~~

#### ~~23.2. COVERAGE.~~

~~a. **CASUALTY.** All buildings and improvements upon the land shall be insured in an amount equal to maximum insurable replacement value, excluding foundation and excavation costs, and all personal property included in the common elements shall be insured for its value, all as determined annually by the Board of Directors or the Association. Such coverage shall afford protection against:~~

- ~~1. Loss or damage by fire or other hazards covered by a standard extended coverage endorsement, and~~

~~2. Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location, and use as the buildings on the land, including but not limited to vandalism and malicious mischief.~~

~~b. PUBLIC LIABILITY. In such amounts and with such coverage as shall be required by the Board of Directors of the Association, including but not limited to hired automobile and non-owned automobile coverages, and with cross liability endorsement to cover liabilities of the unit owners as a group to a unit owner.~~

~~c. WORKERS' COMPENSATION policy to meet the requirements of law.~~

~~d. SUCH OTHER INSURANCE as the Board of Directors of the Association shall determine from time to time to be desirable.~~

~~23.3. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense.~~

~~23.4. All insurance policies purchased by the Association shall be for the benefit of the Association and the unit owners and their mortgagees as their interests appear, and shall provide that all proceeds covering property losses in excess of \$5,000.00 shall be paid to Venice-Nokomis Bank and Trust Company, Venice, Florida as Trustee, or to such other bank in Florida with trust powers as may be designated as insurance trustee by the Board of Directors of the Association, which trustee is referred to in this instrument as the Insurance Trustee. All proceeds less than \$5,000.00 shall be paid directly to the Association. The Insurance Trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the proceeds in trust for the purposes elsewhere stated in this instrument and for the benefit of the unit owners and their mortgagees in the following shares, but which shares need not be set forth on the records of the Insurance Trustee.~~

~~a. Proceeds on account of damage to common elements—an undivided share for each unit owner, such share being the same as the undivided share in the common elements appurtenant to his apartment.~~

~~b. Proceeds on account of damage to apartments shall be held in the following undivided shares:~~

~~1. When the building is to be restored—for the owners of damaged units in proportion to the costs of repairing the damage suffered by each unit owner, which cost shall be determined by the Association.~~

~~2. When the building is not to be restored—an undivided share for each unit owner, such share being the same as the undivided share in the common elements appurtenant to his apartment.~~

~~c. In the event a mortgagee endorsement has been issued as to a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interests may appear; provided, however, that a mortgagee shall have the right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and the mortgagee shall have the right to apply or have applied~~

~~to the reduction of a mortgage debt any insurance proceeds payable to the unit owner and mortgagee pursuant to the provisions of this Declaration.~~

~~23.5. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:~~

~~a. All expenses of the Insurance Trustee shall be paid first or provision made for such payment.~~

~~b. 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 of such as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of an apartment and may be enforced by such mortgagee.~~

~~c. If it is determined in the manner elsewhere provided that the damage for which proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to unit owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of an apartment and may be enforced by such mortgagee.~~

~~d. In making distribution to unit owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association made by its president and secretary as to the names of the unit owners and their respective shares of the distribution.~~

~~e. The Association is irrevocably appointed agent for each unit owner and for each owner of a mortgage or other lien upon an apartment and for each owner of any other interest in the condominium property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.~~

#### ~~24. RECONSTRUCTION OR REPAIR AFTER CASUALTY.~~

~~24.1. If any part of the condominium property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:~~

~~a. If the damaged improvement is a common element, the damaged property shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the condominium shall be terminated.~~

~~b. In the event a loss occurs to any improvement or improvements within individual units without any loss occurring to any of the improvements within the common elements or limited common elements and provided the mortgagee or mortgagees approve, the Trustee shall hold such funds in escrow to pay for repair and reconstruction within the individual units. The money so received shall be allotted to repairs within each unit in proportion to the loss sustained to the improvements within said unit as estimated by the Association, and in the event the insurance funds are not sufficient to effect all of the necessary repairs, the members owning interest in units containing damaged improvements shall be subject to a special assessment and shall contribute to the improvements within their units.~~

~~c. In the event that loss occurs to the improvements within units and the contiguous common elements provided the mortgagees agree, the Association shall promptly contract for the necessary repairs to the improvements within the common element and within the damaged units. In such event, should the insurance proceeds be insufficient to repair the improvements within the common elements and within the units, the funds shall be apportioned to repair improvements within members units and within the common elements in proportion to the loss sustained to improvements within said units and common elements as estimated by the Association. The balance of the sums necessary to complete the repairs of the damage to the common elements shall be secured by assessments against all of the owners of condominium units. The balance of the funds necessary to complete the repairs within the individual units shall be secured by a special assessment against the individual members owning interest in units containing damaged improvements in an amount necessary to repair and restore the improvements within their individual units.~~

~~d. If under subparagraphs a and b above, all of the mortgagees do not agree, the Trustee shall disburse the funds as follows:~~

~~1. Individual shares. The insurance proceeds shall be divided into individual shares. One share allocable to the damage to the common elements in proportion to the ration that the loss to the common elements bears to the entire loss, this share to be retained by the Trustee. One share then shall be allotted to each damaged unit in proportion to the ratio that the loss to the unit bears to the entire loss. All proportions of loss sustained to be estimated by the Association. The share allotted to each damaged unit shall be payable to the unit owner and the mortgagee as their interests may appear. The Association then shall go ahead with the repair of the common elements and the damaged unit. If the sum allotted to the repair of the common elements is not sufficient for said repair, all of the owners of condominium units shall be assessed for the balance of the funds needed for improvements to the common elements and the owners of the individual units shall be assessed individually for the full amount of the sums necessary to complete the repairs within their individual units.~~

~~2. Abandonment. If there has been a loss or damage to the condominium property in excess of 50% of the insured value based on estimates by the insurance carrier and the insurance proceeds are inadequate to repair and reconstruct same, and provided that the mortgagees agree and that 75% of the voting members vote against levying the special assessments and in favor of abandonment, the project shall be abandoned and the condominium terminated.~~

~~3. Evidence of Abandonment. As evidence of the members' resolution to abandon, the president and secretary of the Association shall execute and place in the public records of the County an affidavit stating that such resolution was properly passed to which a copy of consent of 75% of the unit owners and holders of all liens shall be affixed, and upon the filing of such resolution the condominium shall be terminated.~~

~~e. CERTIFICATE. The Insurance Trustee may rely upon a certificate of the Association made by its president and secretary to determine whether or not the damaged property is to be reconstructed or repaired.~~

~~24.2 Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building, or if not, then according to plans and specifications~~

~~approved by the Board of Directors of the Association, and if the damaged property is the apartment building, by the owners of not less than 75% of the common elements, including the owners of all damaged apartments, which approval shall not be unreasonably withheld.~~

~~24.3 Immediately after a determination is made to rebuild or repair damage to property, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.~~

~~24.4 The funds for payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the Insurance Trustees and funds collected by the Association from assessments against unit owners, shall be disbursed in payment of such costs in the following manner:~~

~~a. ASSOCIATION. If the total of assessments made by the Association in order to provide funds for payment of costs of reconstruction and repair is more than \$5,000.00, then the sums paid upon such assessments shall be deposited by the Association with the Insurance Trustee. In all other cases, the Association shall hold the sums paid upon such assessments and disburse them in payment of the costs of reconstruction and repair.~~

~~b. INSURANCE TRUSTEE. The proceeds of insurance collected on account of a casualty, and the sums deposited with the Insurance Trustee by the Association from collections of assessments against unit owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order:~~

~~1. If the amount of the estimated costs of reconstruction and repair is less than \$5,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however, that upon request to the Insurance Trustee by a mortgagee that is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner provided for the reconstruction and repair of major damage.~~

~~2. If the amount of the estimated costs of reconstruction and repair is more than \$5,000.00, then the construction fund shall be disbursed in payment of such costs and in the manner required by the Board of Directors of the Association and upon approval of an architect qualified to practice in Florida and employed by the Association to supervise the work.~~

~~3. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated; except, however, that the part of a distribution to a beneficial owner that is not in excess of assessments paid by such owner into the construction fund shall not be made payable to any mortgagee.~~

~~4. Notwithstanding the provisions of this instrument, the Insurance Trustee shall not be required to determine whether or not the sums paid by the unit owners upon assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Association or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund nor to determine the payee nor~~

~~the amount to be paid. Instead, the Insurance Trustee may rely upon a certificate of the Association made by its president and secretary as to any or all of such matters and stating that the sums to be paid are due and properly payable and stating the name of the payee and the amount to be paid; provided that when a mortgagee is required in the instrument to be named as payee, the Insurance Trustee shall also name the mortgagee as a payee of any distribution of insurance proceeds to a unit owner; and further provided that when the Association, or a mortgagee that is the beneficiary of an insurance policy whose proceeds are included in the construction fund so requires, the approval of an architect named by the Association shall be first obtained by the Association upon disbursement in payment of costs of reconstruction and repair.~~

~~25. AUTHORITY TO EXECUTE LEASE. The Association has executed the lease attached hereto as Exhibit "C" wherein the Developer is the lessor and the Association is the Lessee. The Association shall abide by all the terms and conditions of said lease.~~

~~26. COMPLIANCE AND DEFAULT.~~

#### **ARTICLE XV. COMPLIANCE, DEFAULT, AND ENFORCEMENT.**

Each unit owner shall be governed by and shall comply with the terms of the Declaration of Condominium, Articles of Incorporation, and Bylaws and the Rules and Regulations adopted pursuant to those documents, and all of such as they may be amended from time to time. Failure of a unit owner to comply with such documents and regulations shall entitle the Association or other unit owners to the following relief in addition to the remedies provided by the Condominium Act.

~~26.1-15.1. NEGLIGENCE: A unit owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents, or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. A unit owner shall pay the Association the amount of any increase in its insurance premiums occasioned by use, misuse, occupancy or abandonment of a unit or its appurtenances, or of the common elements, by the unit owner.~~

~~26.2-15.2. ATTORNEY'S FEES AND COSTS: In any proceeding arising because of an alleged failure of a unit owner or the Association, to comply with the Declaration, the Bylaws, or the Rules and Regulations adopted pursuant to them, and the documents and regulations as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the court.~~

~~26.3-15.3. NO WAIVER: The failure of the Association or any unit owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation of the Association, the Bylaws, or the Regulations shall not constitute a waiver of the right to do so thereafter.~~

~~15.4. FAILURE TO REPAIR OR MAINTAIN: In the event the owner of a unit fails to maintain it as required abovethe portions of the property that the unit owner is required to maintain, repair, or replace in accordance with the Governing Documents, or if an owner or its tenants or guests makes any alterations or additions without the required written consent, or~~

otherwise damages the common elements, the Association or any other unit owner shall have the right to proceed in a court of law or equity to seek compliance with the foregoing provisions, or the Association shall have the right to assess the unit owner and the unit for the necessary sums to put the improvement within the unit in good condition. After such assessment, the Association shall have the right for its employees or agent to enter the unit and do the necessary work to enforce compliance with the above provision. Such assessment shall be collectable by means of a Condominium Claim of Lien as provided for in this Declaration and the Condominium Act. The Association shall have the right to collect reasonable attorneys' fees and costs if it is the prevailing party in a court of law or equity including costs and fees incurred in Appellate proceedings.

**26.4—15.5. AUTHORITY OF THE BOARD OF DIRECTORS TO LEVY FINES AND SUSPEND USE RIGHTS:**

(a) The Association may levy reasonable fines against a unit or suspend the right to use the Association's common facilities for failure of the unit owner or its occupant, licensee or invitee to comply with any provision of the Declaration of Condominium, the Bylaws, or the reasonable rules of the Association. No fine shall become a lien against a unit unless allowed by the Condominium Act. No fine shall exceed \$100.00 per violation unless a higher amount is allowed by the Condominium Act. However, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for a hearing, provided that no such fine shall in the aggregate exceed \$1,000.00 unless a higher amount is allowed by the Condominium Act. A fine shall not be levied except after giving reasonable notice and opportunity for a hearing to the unit owner and, if applicable, its licensee or invitee.

(b) The Board shall have the authority to adopt procedures and policies regarding fining and suspension of use rights. The Board of Directors shall afford an opportunity for hearing to the party against whom the fine and/or suspension is sought to be levied, after reasonable notice of not less than fourteen (14) days. Unless otherwise permitted by the Condominium Act, the hearing must be held before a committee of at least three members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. The role of the committee is limited to determining whether to confirm or reject the fine or suspension to be imposed by the Board. If a majority of the committee does not approve, the proposed fine or suspension may not be imposed. -The Notice shall include:

- (1) A statement of the date, time and place of the hearing.
- (2) A statement of the provisions of the Declaration, Bylaws and/or lawfully adopted rules and regulations which have allegedly been violated; and
- (3) A short and plain statement of the matters asserted by the Association.

(c) The party against whom the fine or suspension may be levied shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association.

(d) The Association must provide written notice of such fine or suspension by mail or hand delivery to the unit owner and, if applicable, to any tenant, licensee, or invitee of the unit owner.

~~(d) Upon the levying of any fine, the Board may collect such fines like assessments in one or more installments. Each day of violation shall be a separate violation.~~

~~(e) The affected unit owner, whether the offending party or not, shall always be given notice of the hearing.~~

15.6. ELECTION OF REMEDIES: All rights, remedies and privileges granted to the Association or unit owner pursuant to any terms, provisions, 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 thus exercising the same from exercising such other and additional right, remedies or privileges as may be granted to such other party by Condominium documents, or at law or at equity.

## 27. LIMITATION OF LIABILITY:

~~27.1 The liability of the owner of a unit for common expenses shall be limited to the amounts for which he is assessed from time to time in accordance with this Declaration.~~

~~27.2 The owner of a unit shall have no personal liability for any damage caused by the association on or in connection with the use of the common elements. A unit owner shall be liable for injuries or damage resulting from an accident in his own unit to the same extent and degree that the owner of a house would be liable for an accident occurring within the house.~~

## ARTICLE XVI. TERMINATION

~~28. TERMINATION.~~ The condominium may be terminated in the following manner in addition to the manner provided by the Condominium Act.

~~28.1~~16.1. If it is determined in the manner elsewhere provided that the apartmentUnit building shall not be reconstructed because of major damages, the condominium plan of ownership will be terminated.

~~28.2~~16.2. The condominium may be terminated at any time by the approval in writing of all record owners of units and all record owners of mortgages on units. If the proposed termination is submitted to a meeting of the members of the Association, the notice of the meeting giving notice of the proposed termination and if the approval of the owners of not less than 75% of the common elements, and of the record owners of all mortgages upon the units, are obtained in writing not later than 30 days from the date of such meeting, then the approving owners shall have an option to buy all of the apartmentUnits of the other owners for the period ending on the 60<sup>th</sup> day from the date of such meeting. Such approvals shall be irrevocable until the expiration of the option, and if the option is exercised, the approvals shall be irrevocable. The option shall be upon the following terms:

**(a)** The option shall be exercised by delivery or mailing by registered mail to each of the record owners of the units to be purchased an agreement to purchase signed by the record owners of units who will participate in the purchase. Such agreement shall indicate which units will be purchased by each participating owner and shall require the purchase of all

units owned by owners not approving the termination, but the agreement shall effect a separate contract between each seller and his purchaser.

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

(c) The purchase price shall be paid in cash.

(d) The sale shall be closed within 10 days following the determination of the sale price.

~~28.3~~16.3. The termination of the condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its president and secretary certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the Public Records of Sarasota County, Florida.

~~28.4~~16.4. After termination of the condominium, the unit owners shall own the condominium property and all assets of the Association as tenants in common in undivided shares that shall be the same as the undivided shares in the common elements appurtenant to the owners; ~~apartment~~Units prior to termination.

~~28.5~~16.5. This section concerning termination cannot be amended without consent of all unit owners and of all record owners of mortgages upon the units.

## ARTICLE XVII. MISCELLANEOUS

~~29~~17.1. **SEVERABILITY**: The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or work, or other provision of this Declaration of Condominium and the Articles of Incorporation, Bylaws and Rules and Regulations of the Association shall not affect the validity of the remaining.

~~30~~17.2. **INTERPRETATION**: Whenever the context so requires, the use of any gender shall be deemed to include all genders and the use of the plural shall include the singular and the singular shall include the plural. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a condominium in accordance with the laws made and provided for same.

17.3. HEADINGS AND CAPTIONS: The captions used in this Declaration of Condominium and the Exhibits annexed hereto are inserted solely as a matter of convenience and shall not be relied upon/or used in construing the effect or meaning of any of the text of this Declaration or Exhibits hereto annexed.

17.4. CONFLICT: Except as otherwise provided within the Association's governing documents or Florida law, if there is a conflict among the provisions of the following documents,

the provisions of the documents shall prevail in the following order: Declaration, Articles of Incorporation, Bylaws, Rules and Regulations promulgated by the Board.

~~31. EXHIBITS. All exhibits attached hereto are incorporated herein by reference and made a part hereof.~~

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