

- (f) **Mortgage Provision.** Anything to the contrary in this Declaration notwithstanding, in the event a Unit Owner mortgages his Unit, together with his Limited Common Elements (whether or not ordinarily fully assignable apart from the Unit), such Limited Common Elements shall not be assignable apart from the Units unless they are released from the lien of such mortgage.

5.6 **Easements.** The following easements are hereby created (in addition to any easements created under the Act):

- (a) **Support.** Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units and the Common Elements.
- (b) **Utility and Other Services: Drainage.** Easements are reserved under, through and over the Condominium Property as may be required from time to time for utility, cable television, communications and security systems, other services and drainage and water management in order to serve the Condominium. A Unit Owner shall do nothing within or outside his Unit that interferes with or impairs, or may interfere with or impair, the provision of such utility, cable television, communications and security systems, other service, or water management facilities or drainage facilities or the use of these easements. The Association or its designee shall have the irrevocable right of access to each Unit during reasonable hours to maintain, repair or replace the pipes, wires, ducts, vents, cables, conduits and other utility, cable television, communications and security systems service and drainage facilities, and Common Elements contained in the Unit or elsewhere in the Condominium Property, and to remove any Improvements interfering with or impairing such facilities or easements herein reserved; provided such right of access, except as necessary to prevent damage to the Common Elements or to another Unit or Units, shall not unreasonably interfere with the Unit Owner's permitted use of that Unit.
- (c) **Encroachments.** If (a) any portion of the Common Elements encroaches upon any Unit; (b) any Unit encroaches upon any other Unit or upon any portion of the Common Elements; or (c) any encroachment shall hereafter occur as a result of (i) construction of the Improvements; (ii) settling or shifting of the Improvements; (iii) any alteration or repair to the Common Elements made by or with the consent of the Association or Developer, as appropriate, or (iv) any repair or restoration of the Improvements (or any portion thereof) or any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance

of same so long as the Improvements shall stand.

- (d) **Ingress.** A non-exclusive easement in favor of each Unit Owner, their guests and invitees, shall exist for pedestrian traffic over, through and across sidewalks, streets, paths, walks, and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use; and for vehicular and pedestrian traffic over, through and across such portions of the Common Elements as from time to time may be paved and intended for purposes. None of the easements specified in this Subsection 5.6(d) shall be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any such lien encumbering such easements (other than those on Condominium Parcels) automatically shall be subordinate to the rights of Unit Owners and the Association with respect to such easements. An easement for ingress and egress in favor each Unit Owner, their guests and invitees, shall exist across the land described as Phase 9 until such time as Phase 9 is added to the Condominium.

- (e) **Construction; Maintenance.** The Developer (including its designees, contractors, successors and assigns) shall have the right, in its (and their) sole discretion from time to time, to enter the Condominium Property and take all other action necessary or convenient for the purpose of completing the construction thereof, or any part thereof, or any Improvements or Units located or to be located thereon, and for repair, replacement and maintenance purposes where the Association fails to do so or where the Developer, in its sole discretion, determines that it is required to do so. Notwithstanding the foregoing, this easement shall at all times be subject to the provisions of Section 718.111(5), Florida Statutes.

- (f) **Sales Activity.** For as long as there are any unsold Units or Units leased to the Developer, the Developer, its designees, nominees, successors and assigns, shall have the right to use any such Units and parts of the Common Elements for model apartments and sales and construction offices, to show model Units and use Units as guest suites and to show and use the Common Elements to prospective purchasers and tenants of Units, and to erect on the Condominium Property signs and other promotional material to advertise Units for sale or lease.

- (g) **Additional Easements.** The Developer (as long as the Developer is offering units for sale in the ordinary course of business) and the Association, on their behalf and on behalf of all Unit Owners (each of whom hereby appoints the Developer and the Association as its attorney-in-fact for this purpose), each shall have the right to grant such additional general (“blanket”) and specific electric, gas or other utility, cable television, security systems, communications or service easements (and

appropriate bills of sale for equipment, conduits, pipes, lines and similar installations pertaining thereto), or relocate any such existing easements or drainage facilities or water management facilities, in any portion of the Condominium Property, and to grant access easements or relocate any existing access easements in any portion of the Condominium Property, as the Developer or the Association shall deem necessary or desirable for the property operation and maintenance of the Improvements, or any portion thereof, or for the general health or welfare of the Unit Owners, or for the purpose of carrying out any provisions of this Declaration, provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the reasonable use of the Units for dwelling purposes.

- (h) **Easement in favor of Master Developer.** Master Developer, the Resort and any lessee, operator or manager of all or a part of the Resort's facilities, and their respective agents, invitees, members and guests, shall have an easement for ingress and egress, to, from and over and upon all portions of the Common Elements, which are located nearby and adjacent to the golf course(s) which comprise part of the Resort's facilities, for the sole purpose of allowing errant golf balls to travel over and into and to come to rest upon and be retrieved from any and all portions of the Common Elements located nearby and adjacent to the Resort's facilities. Neither Developer, Master Developer, the Resort, nor any lessee, manager or operator of all or a part of the Resort's facilities, nor their respective employees, agents, invitees, members or guests, shall have any liability or responsibility whatsoever for any property damage occasioned by or personal injury to any person, whether an Owner, a member of such Owner's family or any employee, guest or invitee of such Owner, who or which is accidentally struck by a golf ball. Neither the Association nor any Owner shall have the right to make a claim or bring an action against Developer, Master Developer, or the Resort, or any lessee, operator or manager or all or any portion of the Resort's facilities, or their respective employees, agents, invitees, members or guests for personal injury or property damage due to the flight of errant golf balls. Moreover, the travel, entry within and coming to rest of golf balls, over, upon or within any property nearby or adjacent to the golf course(s), shall not be deemed to constitute a nuisance or hazard to the health, safety or welfare of the owner of any property near or adjacent to the golf course(s) (including, without limitation the Units and the Common Elements), and no injunctive relief or damages therefor shall be recoverable by any party or granted by any court; it being expressly agreed by any owner of property nearby or adjacent to the golf course(s) (including without limitation the Units and Common Elements) that the risk of such personal injury or damage to property has been assumed by such Owner on behalf of himself, the members of his family and his employees, guests and other invitees at the

time of the acceptance of a deed or other conveyance of his Unit of the Common Elements.

6. **Restraint Upon Separation and Partition of Common Elements.** The undivided share in the Common Elements and Common Surplus which is appurtenant to a Unit, and the exclusive right to use all appropriate appurtenant Limited Common Elements, shall not be separated therefrom and shall pass with the title to the Unit, whether or not separately described. The appurtenant share in the Common Elements and Common Surplus, and the exclusive right to use all Limited Common Elements appurtenant to a Unit, except as elsewhere herein provided to the contrary, cannot be conveyed or encumbered except together with the Unit. The respective shares in the Common Elements appurtenant to a Unit shall remain undivided, and no action for partition of the Common Elements, the Condominium Property, or any part thereof, shall lie, except as provided herein with respect to termination of the Condominium.

7. **Ownership of Common Elements and Common Surplus and Share of Common Expenses; Voting Rights.**

7.1 **Fractional Ownership and Shares.** The ownership of each Unit shall include an undivided fractional interest in the Land and other Common Elements as defined in Section 718.108, Florida Statutes and an undivided fractional share of the Common Surplus. Each Unit in the Condominium shall be attributed a one fourth (1/8th) fractional interest and share if only Phases 6, 7 and 9 are constructed (Phase 9 does not contain any Units), and a one-thirty-second (1/32) fractional interest and share if all Additional Phases are constructed and submitted to the condominium. Each Unit's fractional interest shall be a fraction the numerator of which is one (1) and the denominator of which shall be the number of Units submitted to the condominium.

7.2 **Voting.** Each Unit shall be entitled to one (1) vote to be cast by its Owner in accordance with the provisions of the Articles and By-Laws. Each Unit Owner shall be a member of the Association.

8. **Amendments.** Except as elsewhere provided herein, amendments may be effected as follows:

8.1 **By the Association.** The full text of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered. Proposals to amend existing provisions of this Declaration shall contain the full text of the provisions to be amended; new words to be inserted in the text shall be 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, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of

Declaration. See provision . . . for present text.” Nonmaterial errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment. A resolution for the adoption of a proposed amendment may be proposed by a majority of the Board of Directors for the Association or by not less than two-thirds (2/3) of the Units in the Condominium. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, approvals must be by affirmative vote of:

- (a) Unit Owners in excess of 50% of the Units in the Condominium and by not less than 66-2/3% of the Board of Directors of the Association; or
- (b) Unit Owners in excess of 66-2/3% of the Units in the Condominium.

8.2 **By the Developer.** Except as otherwise provided in Section 8.4 or elsewhere in this Declaration, the Developer, during the time it has the right to elect a majority of the Board of Directors of the Association, may amend the Declaration, the Articles or By-Laws to correct an omission or error, or affect any other amendment, except that this procedure for amendment cannot be used if such an amendment would materially and adversely affect substantial property rights of Unit Owners, unless the affected Unit Owners consent in writing. The Developer reserves the right to amend this Declaration for one or any combination of the following purposes:

- (a) To depict all of the Improvements existing on the Condominium Property; to depict all Common Elements and Limited Common Elements on the Condominium Property; to comply with the requirements of any federal, state or local law, government, quasi-government, agency or governmental related corporation, including, without limitation, the requirements of the FHLMC, FNMA or the provisions of the Fair Housing Act of 1968 as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C., Section 3601-3631 (the “FHAA”); and to amend this Declaration to modify and correct any typographical and/or scrivener’s errors.
- (b) To conform to the requirements of any Institutional Mortgagee or government agency willing to make, purchase or insure mortgage loans secured by Units or any portion of the Condominium Property.
- (c) To conform this Declaration to the requirements of any valid statute, rule or regulation affecting the subject matter hereof; or
- (d) For the purposes set forth and pursuant to the provisions of Section 718.104(4)(e), Florida Statutes; or

(e) For the purposes set forth and pursuant to the provisions of Section 718.110(5), Florida Statutes; or

(f) An amendment pursuant to Sections 11 and 12 of this Declaration.

8.3 **Execution; Recording.** An amendment, other than the amendments made by the Developer alone pursuant to the Act or this Declaration, shall be evidenced by a certificate of the Association which shall include recording data identifying the Declaration and shall be executed with the same formalities required for the execution of a deed. Amendments by the Developer must be evidenced by a similar certificate executed by the Developer alone. An amendment of the Declaration is effective when properly recorded in the Public Records of the County where this Declaration is recorded.

8.4 **Proviso.**

(a) No amendment shall change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to any Unit, or change the proportion or percentage by which the Owner of a Unit shares the Common Expenses and owns the Common Elements and Common Surplus, unless the record owner(s) thereof, and all record owners of liens on the Unit join in the execution of the amendment and unless all the record Owners of all other Units approve the amendment. No amendment may permit timeshare estates to be created in any Unit, unless the record owners of all Units and the record owners of liens on all Units join in the execution of the amendment. No amendment shall make any change in the Section hereof entitled "Insurance," "Reconstruction or Repair after Fire or Other Casualty," or "Condemnation," which amendment materially affects the rights or interests of the Primary Institutional First Mortgagee, unless the Primary Institutional First Mortgagee shall join in the amendment. Such joinder shall not be unreasonably withheld. The provisions of this Subsection 8.4 may not be amended in any manner. No provision of this Declaration shall be revised or amended by reference to its title or number only.

(b) Any amendment to the Covenants and Restrictions which alter the Surface Water or Stormwater Management System, beyond maintenance in its original condition, including the water management portions of the Common Elements, must have the prior approval of the St. Johns River Water Management District.

9. **Units and Limited Common Elements.** All maintenance, repairs and replacement of, in or to any Unit and Limited Common Elements appurtenant thereto, whether structural or nonstructural, ordinary or extraordinary, including, without limitation, maintenance, repair and replacement of screens, windows, the interior side or the entrance door and all other doors within

or affording access to a Unit, elevators, and the electrical (including wiring), plumbing (including fixtures and connections), heating and air-conditioning equipment fixtures and outlets, appliances, carpets and other floor coverings, all interior surfaces and the entire interior of the Unit lying within the boundaries of the Unit or the Limited Common Elements or other property belonging to the Unit Owner, shall be performed by the Owner of such Unit at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein.

- 9.1 **Common Elements.** Except to the extent (i) expressly provided to the contrary herein, (i.e., as to Limited Common Elements) or (ii) proceeds of insurance are made available therefor, all maintenance, repairs and replacements in or to the Common Elements (other than Limited Common Elements as provided above) shall be performed by the Association and the cost and expense thereof shall be charged to all Unit Owners as a Common Expense, except to the extent arising from or necessitated by the negligence, misuse or neglect of specific Unit Owners, in which case such cost and expense shall be paid solely by such Unit Owners.
- 9.2 **Surface or Stormwater Management System.** The Association shall be responsible for the maintenance, operation, repair and management of the Surface Water or Stormwater Management System in a manner consistent with the St. Johns River Water Management District permit requirements, and applicable District rules, and shall assist in the enforcement of the restrictions and covenants contained herein. Maintenance of the Surface Water or Stormwater Management System(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other Surface Water or Stormwater Management capabilities as permitted by the St. Johns River Water Management District. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the Surface Water or Stormwater Management System shall be as permitted, or if modified as approved by the St. Johns River Water Management District.
- 9.3 **Specific Unit Owner Responsibility.** The obligation to maintain and repair any equipment, fixtures or other items of property which service a particular Unit or Units and are Limited Common Elements thereof shall be the responsibility of the applicable Unit Owners, individually, and not the Association, without regard to whether such items are included within the boundaries of the Units. Where a Limited Common Element consists of a terrace (more particularly, without limitation, a balcony, court or patio, or garage), the Unit Owner who has the right to the exclusive use of said terrace, balcony, court, patio or garage shall be responsible for the maintenance, care and presentation of the paint and surface of the interior walls, including floor and ceiling within said area, if any, and the fixed and/or sliding glass door(s) and/or garage doors in other portions of the entrance way(s) of said area, if any, and the wiring, electrical outlet(s) and fixture(s) thereon, if any, and the replacement of light bulbs, if any. Where a Limited Common Element consists of an elevator, the Unit Owner who has the right to the exclusive use of said elevator shall be solely responsible for the

maintenance, care and presentation of the elevator.

10. **Additions, Alterations or Improvements by the Association.** Whenever in the judgment of the Board of Directors, the Common Elements, or any part thereof, shall require capital additions, alterations or improvements (as distinguished from maintenance, repairs and replacements) costing in excess of \$10,000.00 in the aggregate in any calendar year, the Association may proceed with such additions, alterations or improvements only if the making of such additions, alterations or improvements shall have been approved by a majority of the Units present at a meeting at which a quorum is attained. Any such additions, alterations or improvements to such Common Elements, or any part thereof, costing in the aggregate \$10,000.00 or less in a calendar year may be made by the Association without prior approval of the Unit Owners. The cost and expense of any such additions, alterations or improvements to such Common Elements shall constitute part of the Common Expenses and shall be assessed to the Unit Owners as Common Expenses. For purposes of this Section “aggregate in any calendar year” shall include the total debt incurred in that year, if such debt is incurred to perform the above stated purposes, regardless of whether the repayment of any part of that debt is made beyond that year. The requirements of this section shall operate in lieu of the requirements of Section 718.113(2), Florida Statutes.

11. **Additions, Alterations or Improvements by Unit Owner.** No Unit Owner shall make any addition, alteration or improvement in or to the Common Elements, the Unit or any Limited Common Element, including, but not limited to, the installation of awnings, hurricane shutters, hot tubs or trellises in balconies, terraces and patio areas, without the prior written consent of the Board of Directors. The Board shall have the obligation to answer any written request by a Unit Owner for approval of such an addition, alteration or improvement in such Unit Owner’s Unit or Limited Common Elements within thirty (30) days after such request and all additional information requested is received, and the failure to do so within the stipulated time shall constitute the board’s consent. Notwithstanding the foregoing, the Board shall not refuse to approve the installation or replacement of hurricane shutters conforming to specifications as to color, style and other factors deemed relevant by the Board. The proposed additions, alterations and improvements by the Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, and with any conditions imposed by the Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise. Once approved by the Board of Directors, such approval may not be revoked. A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, and all other Unit Owners harmless from and to indemnify them for any expenses arising therefrom.

The Board may appoint an Architectural Control Committee to assume the foregoing functions on behalf of the Board.

12. **Changes in Developer-Owned Units.** Without limiting the generality of the provisions of Section 11 above, the Developer shall comply with all laws, ordinances and regulations of all

governmental authorities having jurisdiction in so doing.

13. **Operation of the Condominium by the Association; Powers and Duties.**

13.1 **Powers and Duties.** The Association shall be the entity responsible for the operation of the Condominium. The powers and duties of the Association shall include those set forth in the Articles and By-Laws (respectively, Exhibits D and E annexed hereto), as amended from time to time. In addition, the Association shall have the powers and duties set forth in the Act, as well as all powers and duties granted to or imposed upon it by this Declaration, including without limitation:

- (a) The irrevocable right to have access to each Unit from time to time during reasonable hours when necessary for the maintenance, repair or replacement of any Common Elements therein, or of any portion of a Unit maintained by the Association pursuant to this Declaration, or at any time as necessary, for making emergency repairs therein to prevent damage to the Common Elements or a Unit or Units.
- (b) The power to make and collect Assessments and other charges against Unit Owners and to regulate, administer, lease, maintain, repair and replace the Common Elements.
- (c) The duty to maintain accounting records according to good accounting practices, which shall be open to inspection by Unit Owners or their authorized representatives at all reasonable times upon prior request.
- (d) The power to contract for the management and maintenance of the Condominium Property and to authorize a management agent (who may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of Common Elements with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted in the condominium documents and the Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.
- (e) The power to borrow money, execute promissory notes and other evidence of indebtedness and to give as security therefor mortgages and security interests in property owned by the Association, if any, provided that such actions are approved by a majority of the entire membership of the Board of Directors and of the Units represented at a meeting at which a quorum

has been attained, or by such greater percentage of the Board or Unit Owners as may be specified in the By-Laws with respect to certain borrowing, provided further that no such action shall be permitted without the prior written consent of the Developer, while the Developer owns any Unit.

- (f) The power to adopt and amend rules and regulations concerning the details of the operation and use of the Condominium Property.
- (g) The power to charge a fee for the exclusive use of Common Elements (other than Limited Common Elements) or Association Property to any Unit Owner being granted, by the Association, a right to such exclusive use.
- (h) The power to levy and collect adequate assessments against members of the Association for the costs of maintenance and operation of the Surface Water or Stormwater Management System.
- (i) All of the powers which a corporation not-for-profit in the State of Florida may exercise.

In the event of conflict among the power and duties of the Association or the terms and provisions of this Declaration, exhibits attached hereto, this Declaration shall take precedence over the Articles, By-Laws and applicable Rules and Regulations; the Articles shall take precedence over the By-Laws and applicable Rules and Regulations; and the By-Laws shall take precedence over applicable Rules and Regulations, all as amended from time to time. Notwithstanding anything in this Declaration or its exhibits to the contrary, the Association shall at all times be the entity having ultimate control over the Condominium, consistent with the Act.

- 13.2 **Limitation Upon Liability of Association.** Notwithstanding the duty of the Association to maintain and repair parts of the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage, other than for the cost of maintenance and repair, caused by any latent condition of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements done by, or on behalf of any Unit Owners regardless of whether or not same shall have been approved by the Association pursuant to Subsection 11.1 hereof. Further, the Association shall not be liable to any Unit Owner or lessee or to any other person or entity for any property damage, personal injury, death or other liability on the grounds that the Association did not obtain or maintain insurance (or carried insurance with any particular deductible amount) for any particular matter where such insurance is not required to be obtained or maintained by the Association when the

Association is in compliance with Section 718.111(11) Florida Statutes, this Declaration and the Articles and By-Laws of the Association.

- 13.3 **Restraint Upon Assignment of Shares and Assets.** The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit.
- 13.4 **Approval or Disapproval of Matters.** Whenever the decision of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, that decision shall be expressed by the same person who would cast the vote for that Unit if at an Association meeting, unless the joinder of all record owners of the Unit is specifically required by this Declaration or by law.
- 13.5 **Acts of the Association.** Unless the approval or action of Units and/or a certain specific percentage of the Board of Directors of the Association is specifically required in this Declaration, the Articles, By-Laws, applicable Rules and Regulations, or applicable law, all approvals or actions required or permitted to be given or taken by the Association shall be given or taken by the Board of Directors, without the consent of Unit Owners, and the Board may so approve and act through the proper officers of the Association without a specific resolution. When an approval or action of the Association is permitted to be given or taken hereunder or thereunder, such action or approval may be conditioned in any manner the Association deems appropriate, or the Association may refuse to take or give such action or approval without the necessity of establishing the reasonableness of such conditions or refusal.

14. **Determination of Common Expenses and Fixing of Assessments Therefor.** The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of Assessments payable by the Unit Owners to meet the Common Expenses of the Condominium and allocate and assess such expenses among the Owners in accordance with the provisions of this Declaration and the By-Laws. The Board of Directors shall advise all Owners promptly in writing of the amount of the Assessments payable by each of them as determined by the Board of Directors as aforesaid and shall furnish copies of each budget, on which such Assessments are based, to all Unit Owners and (if requested in writing) to their respective mortgagees. The Common Expenses shall include the expenses of and reserve for (if required by law) the operation, maintenance, repair and replacement of the Common Elements, the costs of maintenance and operation of the Surface Water or Stormwater Management System, the cost of providing a bulk rate cable television service, costs of carrying out the powers and duties of the Association and any other expenses designated as Common Expenses by the Act, this Declaration, the Articles, By-Laws, or applicable Rules and Regulations of the Association. Incidental income to the Association, if any, may be used to pay regular or extraordinary Association expenses and liabilities, to fund reserve accounts, or otherwise as the Board shall determine from time to time, and need not be restricted or accumulated. Any budget adopted shall be subject to change to cover actual expenses at any time. Any such change shall be adopted consistent with the provisions of the By-Laws.

15. **Collection of Assessments.**

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

15.2 **Default in Payment of Assessments for Common Expenses.** Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within ten (10) days after the due date, the assessment shall bear interest at the highest lawful rate from the date due until paid. In addition, the Association may charge an administrative late fee, not to exceed the greater of Twenty-Five and 00/100 Dollars (\$25.00) or five percent (5%) of each delinquent payment. Payments on accounts of delinquent assessments shall first be applied to interest, then to late fees, then to costs and attorneys fees and then to the delinquent payment. The Association has a lien on each Condominium Parcel for any unpaid Assessments on such Condominium Parcel, with interest, and for reasonable attorney's fees and costs incurred by the Association incident to the collection of the Assessment or enforcement of the lien. The lien is effective as of the date of the recording of this Declaration and shall be evidenced by the recording of a claim of lien in the Public Records of the County, stating the description of the Condominium Parcel, the name of the record owner, the name and address of the Association, the amount due and the due dates. The claim of lien shall not be released until all sums secured by it (or such other amount as to which the Association shall agree by way of settlement) have been fully paid or until it is barred by law. The claim of lien shall secure (whether or not stated therein) all unpaid assessments, interest thereon, and costs and attorney's fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a final judgment of foreclosure thereof. A claim of lien shall be signed and acknowledged by an officer or agent of the Association. Upon payment, the person making the payment is entitled to a satisfaction of the lien in recordable form. The Association may bring an action in its name to foreclose a lien for unpaid Assessments in like manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid Assessments without waiving any claim of lien.

15.3 **Developer Reserve Liability.** Notwithstanding anything in the Declaration to the contrary, prior to turnover of control of the Association to Unit Owners, and

beginning with the fiscal year in which the Declaration is recorded, the Developer may vote annually for each of the first two (2) fiscal years of operation of the Association to waive the reserves and contributions for capital improvements.

- 15.4 **Notice of Intention to Foreclose Lien.** No foreclosure judgment may be entered until at least thirty (30) days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments. If this notice is not given at least thirty (30) days before the foreclosure action is filed, and if the unpaid Assessments, including those coming due after the claim of lien is recorded are paid before the entry of a final judgment of foreclosure, the Association shall not recover attorneys' fees or costs. The notice must be given by delivering of a copy of it to the Unit Owner or by certified or registered mail, return receipt requested, addressed to the Unit Owner at the last known address, and upon such mailing, the notice shall be deemed to have been given. If after diligent search and inquiry, the Association cannot find the Unit Owner or a mailing address at which the Unit Owner will receive this notice, the court may proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this Subsection 15.4 are satisfied if the Unit Owner records a Notice of Contest of Lien as provided in the Act.
- 15.5 **Appointment of Receiver to Collect Rental.** If the Unit Owner remains in possession of the Unit and the claim of lien is foreclosed, the court in its discretion may require the Unit Owner to pay a reasonable rental for the Unit and the Association is entitled to the appointment of a receiver to collect the rent.
- 15.6 **First Mortgagee.** In the event a first mortgagee shall obtain title to the Unit as a result of foreclosure of its mortgage pursuant to proceedings in which the Association has been properly named as a junior lien-holder, or as a result of a deed given in lieu of foreclosure or in satisfaction of debt, such first mortgagee, its successors and assigns, shall not be liable for the share of Common Expenses or Assessments or other charges imposed by the Association pertaining to such Condominium Parcel or chargeable to the former Unit Owner of such Condominium Parcel which became due prior to that period of time in excess of six (6) months preceding acquisition of title as a result of the foreclosure (provided the Association has been properly named as a defendant junior lienholder) or the acceptance of such deed. In no event shall such first mortgagee be liable for more than one percent (1%) of the original mortgage debt. Such unpaid shares of Common Expenses or Assessments or other charges shall be deemed to be Common Expenses collectible from all of the Unit Owners, including such acquirer, and such acquirer's successors and assigns.
- 15.7 **Developer's Liability for Assessments.** The Developer shall be excused from the payment of its share of the Common Expenses as to the Units owned by the Developer during the "Guaranty Period" which is the period commencing upon the recording of this Declaration until turnover of the Association. During the

period of time when the Developer is excused from paying its share of the Common Expenses, the Developer shall be obligated to pay the difference between the Association's Common Expenses, and the sums collected for Common Expenses from Unit Owners other than the Developer. For the first year of operation of the Association, the Developer guarantees that the monthly assessment for each Unit, including reserves, shall not be greater than \$260.00. If the turnover of control of the Association does not occur within the first year of operation of the Association, then the Developer further guarantees that for the second year of operation of the Association, the monthly assessment for each Unit, including reserves, will not be greater than \$299.00. If the turnover of control of the Association does not occur within the second year of operation of the Association, then the Developer further guarantees that for the third year of operation of the Association, the monthly assessment for each Unit, including reserves, will not be greater than \$343.85. If the turnover of control of the Association does not occur within the third year of operation of the Association, then the Developer further guarantees that for the fourth year of operation of the Association, the monthly assessment for each Unit, including reserves, will not be greater than \$395.43. If the turnover of control of the Association does not occur within the fourth year of operation of the Association, then the Developer further guarantees that for the fifth year of operation of the Association, until turnover, the monthly assessment for each Unit, including reserves, will not be greater than \$454.74. For purposes of this Section, income to the Association other than Assessments (as defined herein and in the Act) shall not be taken into account when determining the deficits to be funded by the Developer. No funds receivable from Unit purchasers or Owners payable to the Association or collected by the Developer on behalf of the Association, other than regular periodic Assessments for Common Expenses as provided in this Declaration and disclosed in the Estimated Operating Budget referred to above shall be used for the payment of Common Expenses prior to the expiration of the Guaranty Period. This restriction shall apply to funds including, but not limited to, capital contributions or start-up funds collected from Unit purchasers at closing.

- 15.8 **Certificate of Unpaid Assessments.** Within fifteen (15) days after request by a Unit Owner or mortgagee of a Unit, the Association shall provide a certificate stating all Assessments and other moneys owed to the Association by the Unit Owner with respect to their Unit.
- 15.9 **Installments.** Regular Assessments shall be collected quarterly, in advance, by the Association.
- 15.10 **Use of Common Elements.** The Association shall not charge any fee against a Unit Owner for the use of the Common Elements or Association Property unless such use is the subject of a lease between the Association and the Unit Owner.
16. **Insurance.** Insurance covering the Condominium Property and the Association Property

shall be governed by the following provisions:

16.1 **Purchase, Custody and Payment:**

- (a) **Purchase.** All insurance policies described herein covering portions of the Condominium Property shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida.
- (b) **Approval.** Each insurance policy, the agency and company issuing the policy and the Insurance Trustee (if appointed) hereinafter described shall be subject to the approval of the Primary Institutional First Mortgagee in the first instance.
- (c) **Name Insured.** The named insured shall be the Association, individually, and as agent for Unit Owners covered by the policy, without naming them, and as agent for their mortgagees, without naming them. The Unit Owners and their mortgagees shall be deemed additional insureds.
- (d) **Payment of Proceeds.** All policies shall provide that payments for losses made by the insurer shall be paid to the Insurance Trustee (if appointed), and copies of all policies and endorsements thereto shall be given to the Insurance Trustee (if appointed).
- (e) **Copies to Mortgagees.** One copy of each insurance policy, or a certificate evidencing such policy, and all endorsements thereto, shall be furnished by the Association upon request to each Institutional First Mortgagee who holds a mortgage upon a Unit covered by the policy. Copies or certificates shall be furnished not less than ten (10) days prior to the expiration of each preceding policy that is being renewed or replaced, as appropriate.
- (f) **Personal Property and Liability.** Except as specifically provided herein or by the Act, the Association shall not be responsible to Unit Owners to obtain insurance coverage upon the property lying within the boundaries of their Unit, including, but not limited to, their personal property and for their personal liability and living expenses, and for any other risks not otherwise insured in accordance herewith.

16.2 **Coverage.** The Association shall use its best efforts to maintain insurance covering the following:

- (a) **Casualty.** The Building (including all fixtures, installations or additions comprising that part of the Building within the boundaries of the Units and required by the Act to be insured under the Association's policy(ies), but

excluding all furniture, furnishings, floor coverings, wall coverings and ceiling coverings or other personal property owned, supplied or installed by Unit Owners or tenants of Unit Owners, and all Improvements located on the Common Elements from time to time, together with all fixtures, building service equipment, personal property and supplies constituting the Common Elements or owned by the Association (collectively the "Insured Property"), shall be insured in an amount not less than 100% of the full insurable replacement value thereof, excluding foundation and excavation costs. Such policies may contain reasonable deductible provisions as determined by the Board of Directors of the Association. Such coverage shall afford protection against:

- (i) **Loss or Damage by Fire and Other Hazards** covered by a standard extended coverage endorsement; and
 - (ii) **Such Other Risks** as from time to time are customarily covered with respect to buildings and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.
- (b) **Liability**. Comprehensive general public liability and automobile liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Insured Property or adjoining driveways and walkways, or any work, matters or things related to the Insured Property, with such coverage as shall be required by the Board of Directors of the Association, but with combined single limit liability of not less than \$1,000,000 for each accident or occurrence, \$300,000 per person and \$100,000 property damage, and with a cross liability endorsement to cover liabilities of the Unit Owners as a group to any Unit Owner, and vice versa.
- (c) **Worker's Compensation** and other mandatory insurance, when applicable.
- (d) Flood Insurance, if required by the Primary Institutional First Mortgagee, or if the Association so elects.
- (e) Fidelity Insurance covering all directors, officers, employees and management agents of the Association who control or disburse Association funds, if any. Such insurance to be in an amount not less than as required by Section 718.111(11)(d), Florida Statutes.
- (f) Association Property. Appropriate additional policy provisions, policies or endorsements extending the applicable portions of the coverage described above to all Association Property, where such coverage is

available.

- (g) **Such Other Insurance** as the Board of Directors shall determine from time to time to be desirable.

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

- 16.3 **Additional Provisions.** All policies of physical damage insurance shall provide that such policies may not be canceled or substantially modified without at least forty-five (45) days prior written notice of all of the named insureds, including all mortgagees of Units. Prior to obtaining any policy of casualty insurance or any renewal thereof, the Board of Directors shall obtain an appraisal from a fire insurance company, or other competent appraiser, of the full insurable replacement value of the Insured Property (exclusive of foundations) without deduction for depreciation, for the purpose of determining the amount of insurance to be effected pursuant to this Section.
- 16.4 **Premiums.** Premiums upon insurance policies purchased by the Association shall be paid by the Association and shall be a Common Expense. Premiums may be financed in such manner as the Board of Directors deems appropriate.
- 16.5 **Unit Owners Coverage.** Each Unit Owner shall obtain and maintain at all times, individual casualty and general liability policies insuring the property lying within the boundaries of their Unit and for their personal liability arising in the use of their own Unit and other areas of the Common Elements for which they have exclusive use, or for which they have an obligation to repair or replace.
- 16.6 **Insurance Trustee; Share of Proceeds.** All insurance policies obtained by or on behalf of the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee which may, but need not, be designated by the Board of Directors. References herein to the Insurance Trustee shall be deemed to apply to the Board of Directors if it elects to serve such functions pursuant to Subsection 16.11 hereof. 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 to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Unit Owners and their respective mortgagees in the following shares, but shares need not be set forth on the records of the Insurance Trustee:

- (a) **Insured Property.** Proceeds on account of damage to the Insured Property shall be held in undivided shares for each Unit Owner, such shares being the same as the undivided shares in the Common Elements appurtenant to each Unit.
- (b) **Mortgages.** No mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds, except for actual distributions thereof made to the Unit Owner and mortgagee pursuant to the provisions of this Declaration.

16.7 **Distribution of Proceeds.** Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners thereof in the following manner:

- (a) **Expenses in Trust.** All expenses of the Insurance Trustee shall be first paid or provision shall be made therefor.
- (b) **Reconstruction or Repair.** If the damaged property for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided herein. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners thereof, remittances to Unit Owners and their mortgagees being payable jointly to them.
- (c) **Failure to Reconstruct or Repair.** If it is determined in the manner elsewhere provided that the damaged property for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be allocated among the beneficial owners as provided in Subsection 16.6 above, and distributed first to all Institutional First Mortgagees in an amount sufficient to pay off their mortgages, and the balance, if any, to the beneficial owners.
- (d) **Certificate.** In making distributions to Unit Owners and their mortgagees, the Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary as to the names of the Unit Owners and their mortgagees and their respective share of the

distribution.

- 16.8 **Association as Agent.** The Association is hereby irrevocably appointed as agent and attorney-in-fact for each Unit Owner and for each owner of a mortgage or other lien upon a Unit and for each owner of any other interest in the Condominium Property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.
- 16.9 **Unit Owner's Personal Coverage.** Unless the Association elects otherwise, the insurance purchased by the Association shall not cover claims against an Owner due to accidents occurring within his Unit, nor casualty or theft loss to the contents of an Owner's Unit. It shall be the obligation of the individual Unit Owner, if such Owner so desires, to purchase and pay for insurance as to all such and other risks not covered by insurance carried by the Association.
- 16.10 **Benefit of Mortgagees.** Certain provisions in this Section 16 entitled "Insurance" are for the benefit of mortgagees of Units and may be enforced by such mortgagees.
- 16.11 **Insurance Trustee Optional.** The Board of Directors of the Association shall have the option in its discretion of appointing an Insurance Trustee hereunder. If the Association fails or elects not to appoint such Trustee, the Association will perform directly all obligations imposed upon such Trustee by this Declaration. Fees and expenses of any Insurance Trustee are Common Expenses.
- 16.12 **Presumption as to Damaged Property.** In the event of a dispute or lack of certainty as to whether damaged property constitutes a Unit(s) or Common Elements, such property shall be presumed to be Common Elements.
17. **Reconstruction or Repair After Fire or Other Casualty.**
- 17.1 **Determination to Reconstruct or Repair.** In the event of damage to or destruction of the Insured Property as a result of fire or other casualty (unless 75% or more of the Insured Property is destroyed or substantially damaged and Unit Owners owning 80% or more of the applicable interest in the Common Elements elect not to proceed with repairs or restoration and a Majority of Institutional First Mortgagees approve such election), the Board of Directors shall arrange for the prompt repair and restoration of the Insured Property, and the Insurance Trustee (if appointed) shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.
- If 75% or more of the Insured Property is substantially damaged or destroyed and if Unit Owners owning 80% of the applicable interests in the Common Elements

duly and promptly resolve not to proceed with the repair or restoration thereof and a Majority of Institutional First Mortgagees approve such resolution, the Condominium Property will not be repaired and, upon the recording of an instrument terminating the condominium in the public records of Lake County, Florida, the Condominium Property shall be subject to an action for partition instituted by the Association, any Unit Owner, mortgagee or lienor, as if the Condominium Property were owned in common. Whenever in this Section the words "promptly repair" are used, it shall mean that repairs are to begin not more than sixty (60) days from the date the Insurance Trustee (if appointed) notifies the Board of Directors and Unit Owners that it holds proceeds of insurance on account of such damage or destruction sufficient to pay the estimated cost of such work, or not more than ninety (90) days after the Insurance Trustee (if appointed) notifies the Board of Directors and the Unit Owners that such proceeds of insurance are insufficient to pay the estimated costs of such work. The Insurance Trustee (if appointed) 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.

- 17.2 **Plans and Specifications.** Any reconstruction or repair must be made substantially in accordance with the plans and specifications for the original Improvements and the applicable building and other codes; or if not, then in accordance with the plans and specifications and the applicable building and other codes, approved by the Board of Directors of the Association and, if the damaged property which is to be altered is the Building, by the Owners of not less than 80% of the applicable interests in the Common Elements, as well as the Owners of all Units (and their respective mortgages) the plans for which are to be altered.
- 17.3 **Special Responsibility.** If the damage is only to those parts of the Condominium for which the responsibility of maintenance and repair is that of the respective Unit Owners, then the Unit Owners shall be responsible for all necessary reconstruction and repair, which shall be effected promptly and in accordance with guidelines established by the Board of Directors, unless insurance proceeds are held by the Association with respect thereto by reason of the purchase of optional insurance thereon, in which case the Association shall have the responsibility to reconstruct and repair the damaged Condominium Property, provided the respective Unit Owners shall be individually responsible for any amount by which the cost of such repair or reconstruction exceeds the insurance proceeds held for such repair or reconstruction on a Unit by Unit basis, as determined in the sole discretion of the Association. In all other instances, the responsibility for all necessary reconstruction and repair shall be that of the Association.
- (a) **Disbursement.** The proceeds of insurance collected on account of a casualty, and the sums collected from Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in

payment of the costs of reconstruction and repair in the following manner and order:

- (i) **Association - Lesser Damage.** If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association are less than \$10,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Board of Directors; provided, however, that upon request to the Insurance Trustee (if appointed) by an Institutional First Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction funds, such funds shall be disbursed in the manner provided below for the reconstruction and repair of major damage.
- (ii) **Association - Major Damage.** If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is more than \$100,000, then the construction fund shall be disbursed in payment of such costs in the manner contemplated by Subsection 17.3(a)(i) above, but then only upon the further approval of an architect qualified to practice in Florida and employed by the Association to supervise the work.
- (iii) **Unit Owners.** If there is a balance of insurance proceeds after payment of all costs of reconstruction and repair that are the responsibility of the Association, this balance may be distributed to Owners who have the responsibility for reconstruction and repair thereof. The distribution shall be in the proportion that the estimated cost of reconstruction and repair of such damage to each affected Unit Owner bears to the total of such estimated costs to all affected Unit Owners, as determined by the Board; provided, however, that no Unit Owner shall be paid an amount in excess of the estimated costs of repair for his portion of the Property. All proceeds must be used to affect repairs to the Property, and if insufficient to complete such repairs, the Owners shall pay the deficit with respect to their portion of the Property and promptly affect the repairs. Any balance remaining after such repairs have been affected shall be distributed pursuant to the Florida Condominium Act.
- (iv) **Surplus.** It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs relating to the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere

stated; except, however, that part of a distribution to an Owner which is not in excess of Assessments paid by such Owner into the construction fund shall not be made payable jointly to any mortgagee.

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

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

17.5 **Benefit of Mortgagees.** Certain provisions in this Section 17 are for the benefit of mortgagees of Units and may be enforced by any of them.

18. [Reserved]

19. **Occupancy and Use Restrictions.** In order to provide for congenial occupancy of the Condominium Property and for the protection of the value of the Units, the use of the Condominium Property shall be restricted to and shall be in accordance with the following provisions:

- 19.1 **Occupancy.** Each Unit shall be used as a single family residence only, except as otherwise herein expressly provided. A Unit owned by an individual, corporation, partnership, trust or other fiduciary may only be occupied by the following person, and such person's family, provided that the Unit Owner or other permitted occupant must reside with his/her family: (i) the individual Unit Owner, (ii) a

designee of such corporation or of such partnership, as the permanent occupant of the Unit, (iii) the fiduciary or beneficiary of such fiduciary designated as the permanent occupant of the Unit, or (iv) permitted occupants under an approved lease or sublease of the Unit (as described below), as the case may be. Occupants of an approved leased or subleased Unit must be an individual lessee or sublessee and such person's family who reside with him. Under no circumstances may more than one family reside in a Unit at one time. In no event shall occupancy (except for temporary occupancy by visiting guests) exceed two (2) persons per bedroom and/or den (as defined by the Association for the purpose of excluding from such definition living rooms, dining rooms, family rooms, country kitchens and the like). The Board of Directors shall have the power to authorize occupancy of a Unit by persons in addition to those set forth above. The provisions of this Subsection 19.1 shall not be applicable to Units used by the Developer for model apartments, sales offices or management services.

As use herein, "family" or words of similar import shall be deemed to include a spouse and children and any other blood relatives and their family members as or together with the Owner or permitted occupant thereof. As used herein, "guests" or words of similar import shall include only those persons who have a principal residence other than the Unit. Unless otherwise determined by the Board of Directors of the Association, a person(s) occupying a Unit without the Unit Owner or a member of his family being present shall not be deemed a guest but, rather, shall be deemed a lessee for purposes of this Declaration (regardless of whether a lease exists or rent is paid) and shall be subject to the provisions of this Declaration which apply to lessees. The purpose of this paragraph is to prohibit the circumvention of the provisions and intent of this Section 19, and the Board of Directors shall enforce, and the Unit Owners shall comply with same with due regard for such purpose.

- 19.2 **Children.** Children shall be permitted to reside in a Unit subject to the provisions of Subsection 19.1 above.
- 19.3 **Pets.** Unit Owners or occupants of a Unit (regardless of the number of Owners or occupants for any one Unit), may maintain two (2) household pets per Unit. Household pets are limited to domestic dogs (except Rottweilers and Pit Bull Terriers which are not permitted), domestic cats, or caged birds. Unit Owners or occupants of a Unit may maintain one (1) fish tank not to exceed 55 gallons, and such fish shall constitute one (1) household pet. In no event shall household pets be kept, bred, or maintained for any commercial purpose and for only as long as they do not become a nuisance or annoyance to neighbors.

Unless the Association has designated a particular area on the Condominium Property for pet defecation, household pets must be taken off the Condominium Property for that purpose. Unit Owners must pick up all solid waste of their pets and dispose of such waste appropriately. All pets, including cats, must be leashed

at all times when outside the Unit. Pets may not be tied up or leashed to any object on the Condominium Property. Pets may not be kept in a Limited Common Element. No pets shall be allowed in the recreation area or facilities. The Association has the right to pick up loose pets and/or report them to the proper authorities. No reptiles, amphibians or wildlife shall be kept in or on the Condominium Property (including Units). Without limiting the generality of Section 21 hereof, violation of the provisions of this paragraph shall entitle the Association to all of its rights and remedies, including, but not limited to, the right to fine Unit Owners (as provided in any applicable Rules and Regulations) and/or to require any pet to be permanently removed from the Condominium Property.

Without limiting the right of the Association to establish policies in other matters affecting the Condominium, the Association may make reasonable rules and regulations regarding pet ownership in the Condominium.

- 19.4 **Alterations**. Without limiting the generality of Section 11 hereof, no Unit Owner shall cause to allow improvements or changes to any Unit, Limited Common Elements appurtenant thereto or Common Elements, including, but not limited to, painting or other decorating of any nature, installing any electrical wiring, television antenna, machinery, pools, whirlpool or saunas or air-conditioning Units or in any manner changing the appearance of any portion of the Building which is visible from outside, without obtaining the prior written consent of the Association (in the manner specified in Section 11 hereof).
- 19.5 **Use of Common Elements**. The Common Elements shall be used only for furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units.
- 19.6 **Nuisances**. No nuisances (as defined by the Association) shall be allowed on the Condominium Property, nor shall any use or practice be allowed which is a source of annoyance to residents or occupants of Units or which interferes with the peaceful possession or property use of the Condominium Property by its residents or occupants. No offensive, improper, immoral or unlawful use shall be made of the Common Elements, any Unit or any part of the Condominium Property.
- 19.7 **No Improper Uses**. No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Condominium Property, shall be corrected by, and at the sole expense of the party obligated to maintain or repair such portion of the Condominium Property as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles or By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the

provision of this Subsection 19.7.

- 19.8 **Leases.** No portion of a Unit (other than an entire Unit) may be rented. All leases shall be in writing, approved by the Association and shall provide that the Tenant shall have the obligation to observe all of the provisions of this Declaration, the Articles and By-Laws, applicable Rules and Regulations, and other applicable provisions of any document or instrument governing the Condominium. Leasing of Units shall also be subject to the prior written approval of the Association and the Association may deny permission to lease any Unit on any reasonable grounds the Association may find. No lease shall be approved for a term of less than thirty(30) days or one (1) calendar month, whichever is less, or for a term in excess of one (1) year and no single Unit may be leased more than three (3) times in any calendar year. The Association shall have the right to require of all tenants that they deposit in escrow with the Association a sum not in excess of one (1) month's rent which may be used by the Association to repair any damage to the Common Elements or other property owned by the Association resulting from acts or omissions of tenants (as determined in the sole discretion of the Association). Regardless of whether or not expressed in the applicable lease, all Unit Owners shall be jointly and severally liable with their tenants to the Association for any amount which is required by the Association to effect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant or for the acts and omissions of his tenant(s) which constitute a violation of, or noncompliance with, the provisions of this Declaration and of any and all Rules and Regulations of the Association. All leases shall also comply with and be subject to the provisions of Section 21 hereof. This Section shall also apply to subleases and assignments and renewals of leases. No lease approved by the Association shall be amended or modified without the Association's approval. The Association may charge a lease approval fee not in excess of any amount provided for in the Act (as it may be amended from time to time) as a maximum amount for such fees, but no fee shall be charged in connection with the approval of an amendment, modification or extension of a previously approved lease.

In making its determination as to whether to approve a lessee of a Unit, the Association shall not discriminate on the grounds of race, age, gender, religion, national origin or physical or mental handicap.

- 19.9 **Exterior Improvements; Landscaping.** Without limiting the generality of Section 11 and Subsection 19.4 hereof, no Unit Owner shall cause anything to be affixed to, hung, displayed or placed on the exterior walls, doors, balconies or windows of the Building (including, but not limited to, awnings, signs, storm shutters, screens, window tinting, furniture, fixtures and equipment), nor to plant or grow any type of shrubbery, flower, tree, vine, grass or other plant life outside his Unit, without the prior written consent of the Association, and the Architectural Review Committee. Notwithstanding, a Unit Owner may display

one portable, removable, United States flag in a respectful way from his Unit without the consent of the Association or the Architectural Review Committee.

None of the balconies that are contiguous to Units and designated as Limited Common Elements under the Declaration may be enclosed, glassed in or screened in, nor may any Unit Owner alter the configurations of such balconies, or hang plants, draperies, screens or other items therefrom, without the approval of the Association.

- 19.10 **Weight and Sound Restriction.** Hard and/or heavy surface floor coverings, such as tile, wood, etc., will be permitted throughout the Unit, provided, however, use of a hard and/or heavy surface floor covering in any location within the Unit must be submitted to and approved by the Board of Directors and also meet applicable structure requirements. Also, the installation of any Improvement or heavy object must be submitted to and approved by the Board of Directors, and be compatible with the structural design of the building and be adequately insulated from sound transmission. The Board of Directors may require the review of a structural engineer at the Unit Owner's expense. All other areas of the Unit which do not receive the approved hard and/or heavy surface floor coverings, are to receive sound absorbent, less dense floor coverings, such as carpet. No carpet of any type may be placed on the lanai, unless the lanai is enclosed. Floor coverings on balconies shall be limited to a maximum composite thickness of ½" and a maximum composite weight of four pounds per square foot including setting bed and/or adhesive materials, unless approved otherwise by the Board of Directors and compatible with the structural and architectural designs. The Board of Directors will have the right to specify the exact material used on balconies. These use guidelines are consistent with good design practices for waterproofing and structural design. Owners will be held strictly liable for violation of these restrictions and for all damages resulting therefrom and the Association has the right to require immediate removal of violations.
- 19.11 **Pesticides, Herbicides and Fertilizers.** No pesticides, insecticides, fungicides, herbicides, fertilizers or other deleterious substances shall be applied within thirty (30) feet of the property boundary adjoining a lake, pond or golf course fairway, without the prior written approval from the Master Developer or Mission Inn Golf & Tennis Resort (the "Resort") in the case of a boundary adjoining the fairway of a golf course. The Master Developer and the Resort may apply pesticides, insecticides, fungicides, herbicides, fertilizers or other substances as they may deem appropriate within thirty (30) feet of a lake, pond or fairway of a golf course within the Resort facilities, without approval of any entity being required.
- 19.12 **Parking.** No vehicle shall be permitted to be parked on any street within Mission Inn. All vehicles shall be parked in designated parking areas only. No long-term parking shall be permitted in any driveway serving a Unit.