

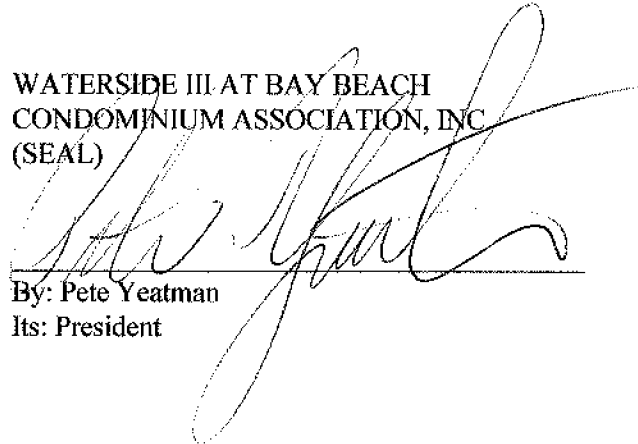
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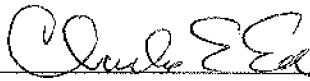
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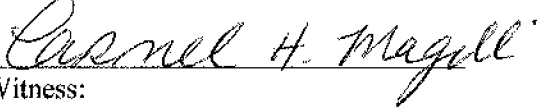
**CERTIFICATE OF AMENDMENT**

THE UNDERSIGNED, being the duly elected and acting President of Waterside III at Bay Beach Condominium Association, Inc., a Florida corporation, not for profit, does hereby certify that at a duly noticed annual members' meeting held on February 19, 2019, at which a quorum was established, the Amended and Restated Declaration of Condominium for Waterside III, a Condominium, and the Amended and Restated Bylaws for Waterside III at Bay Beach Condominium Association, Inc. set forth as Exhibits "A" and "B", were approved by the required vote of the membership. The Declaration of Condominium for Waterside III, a Condominium was originally recorded at Official Records Book 3285, Page 3640, et. seq., Public Records of Lee County, Florida.

WATERSIDE III AT BAY BEACH  
CONDOMINIUM ASSOCIATION, INC  
(SEAL)

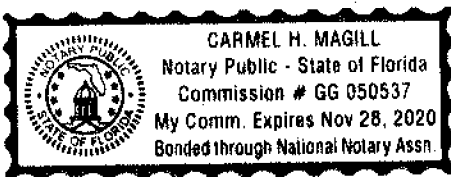
  
By: Pete Yeatman  
Its: President

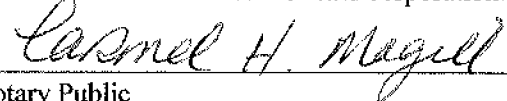
  
Witness: Charles E Eck  
Print Name:

  
Witness: Carmel H. Magill  
Print Name: CARMEL H. MAGILL

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 21<sup>ST</sup> day of February, 2019, by Pete Yeatman, as President of Waterside III at Bay Beach Condominium Association, Inc., the corporation described in the foregoing instrument and who is () personally known to me or who has produced \_\_\_\_\_ as identification and acknowledged executing the same under authority vested in him/her by said corporation and the seal affixed thereto is the seal of said corporation.



  
Notary Public  
Print Name: CARMEL H. MAGILL  
My Commission Expires: 11/28/2020

**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM**  
**FOR WATERSIDE III, A CONDOMINIUM**

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EXHIBIT A to Certificate of Amendment

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**NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE DECLARATION. FOR PRESENT TEXT SEE EXISTING DECLARATION.**

**AMENDED AND RESTATED DECLARATION OF**  
**CONDOMINIUM FOR WATERSIDE III, A CONDOMINIUM**

KNOW ALL MEN BY THESE PRESENTS:

That on July 31, 2000, the original Declaration of Condominium for Waterside III, a Condominium (hereinafter the "Condominium") was recorded in Instrument Number 4930735, the Public Records of Lee County, Florida. That Declaration of Condominium is hereby further amended in part and restated in its entirety as amended.

1. **SUBMISSION TO CONDOMINIUM OWNERSHIP:** This Amended and Restated Declaration of Condominium is made by Waterside III at Bay Beach Condominium Association, Inc., a Florida corporation not for profit, hereinafter the "Association". The land described in this Declaration and the improvements located thereon have already been submitted to condominium ownership and use pursuant to the Florida Condominium Act. No additional property is being submitted to condominium ownership by this Declaration.

2. **NAME AND ADDRESS:** The name of this Condominium is Waterside III, a Condominium. The mailing address of the Association shall be that of the Management Company presently under contract by the Association or the mailing address according to the Florida Division of Corporations.

3. **DESCRIPTION OF CONDOMINIUM PROPERTY:** The land which was submitted to the condominium form ownership by the original Declaration as amended (hereinafter the "Land") is legally described in Exhibit "A" attached hereto and incorporated by reference as though set forth at length herein. The covenants and restrictions contained in this Declaration shall run with the land and be binding upon and inure to the benefit of all present and future Owners of the condominium parcels. The acquisition of title to a Unit, or any interest in the condominium property, or the lease, occupancy, or use of any portion of a Unit or the condominium property, shall constitute an acceptance and ratification of all provisions of this Declaration and an agreement to be bound by its terms. The provisions of this Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan of condominium ownership.

4. **DEFINITIONS:** The terms used in this Declaration and its exhibits shall have the meanings stated below and in Chapter 718, Florida Statutes, as amended from time to time, (the "Condominium Act"), and those stated in this Section 4, unless the context otherwise requires.

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

4.2 **"Association"** means Waterside III at Bay Beach Condominium Association, Inc., a Florida corporation not for profit, the entity responsible for the operation of this Condominium.

4.3 **"Association Property"** means all property, real or personal, owned or leased by the Association for the use and benefit of the Unit Owners.

4.4 "Bay Beach Covenants" means the document entitled "Declaration of Estero Bay Development Corporation Improvements, Restrictions, Conditions and Covenants," as recorded in Book 1134, at Pages 1445 *et seq.*, of the Official Records of Lee County, Florida, and all recorded exhibits thereto, as they may be amended from time to time.

4.5 "Waterside Complex" means the land subject to the Master Declaration, and all improvements located thereon.

4.6 "Waterside Master Covenants" or "Master Declaration" means the Declaration of Covenants, Conditions and Restrictions for Bayside, as recorded in Book 2831, at Pages 3711 *et seq.*, of the Official Records of Lee County, Florida, and all recorded exhibits to it, as amended from time to time.

4.7 "Board of Directors" or "Board" means the representative body, sometimes referred to in the Condominium Act as a "board of administration," which is responsible for the administration of the Association's affairs and the operation of the Condominium.

4.8 "Common Areas" means the real property and all improvements thereon, owned or to be owned by the Waterside Master Association for the use and benefit of the owners of Lots or Living Units in the Waterside Complex as further described in Section 4 of the Master Declaration, as amended.

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

4.10 "Family" or "Single Family" means any one of the following:

- (A) One natural person.
- (B) Two or more natural persons, each of whom is related by blood, marriage or adoption to each of the others.
- (C) Two or more natural persons meeting the requirements of (B) above, except that there is also among them one person who is not related to some or all of the others. The intent of this provision is to include cohabitating couples who are not married.

4.11 "Fixtures" means those items of tangible personal property which by being physically annexed or constructively affixed to the Unit have become accessory to it and part and parcel of it, including but not limited to, interior partitions, walls, appliances which have been built in or permanently affixed, and plumbing fixtures in kitchens and bathrooms. Fixtures do not include floor, wall or ceiling coverings.

4.12 "First Mortgagee" means that mortgagee which holds a first mortgage position on a Unit.

4.13 "Guest" means any person (other than the unit owner and his or her family) who is physically present in, or occupies a unit on a temporary basis at the invitation of the Unit Owner or other permitted occupant, without the payment of consideration. "Temporary" means not more than sixty (60) days in any calendar year.

4.14 "Institutional Mortgagee" means:

- (A) a lending institution holding a mortgage encumbering a condominium parcel, including without limitation any of the following types of institutions: a federal or state savings and loan or building and loan association, a bank chartered by a state or federal government, a real estate investment trust, a pension and profit sharing trust, a mortgage company doing business in the State of Florida, or a life insurance company; or
- (B) a governmental, quasi-governmental or private company that is engaged in the business of making, purchasing, holding, guaranteeing or insuring residential mortgages, including without limitation the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, and the Veterans Administration.

An "Institutional Mortgage" is a mortgage held by an Institutional Mortgagee encumbering a Unit.

4.15 "Lease" means the grant by a Unit Owner of a temporary right of use of the Owner's Unit for valuable consideration.

4.16 "Limited Common Elements" means and includes those portions of the Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of other Units.

4.17 "Occupant" or "Occupy" when used in connection with a Unit, means any person who stays two (2) or more nights in a Unit.

4.18 "Owner" means any person who owns record legal title to a unit. Exception: Solely for the purpose of interpreting the restrictions on the use and occupancy of units, in cases where because of the form of unit ownership, a primary occupant has been designated for a unit pursuant to Section 14.1 below, the word "owner" refers to the primary occupant and not to the record owner.

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

4.20 "Primary Occupant" means the natural person approved for occupancy when title to a Unit is held in the name of two or more persons who are not husband and wife, or by a trustee or a corporation or other entity which is not a natural person, except where the content clearly indicates otherwise.

4.21 "Rules and Regulations" means those rules and regulations promulgated by the Board of Directors, governing the use of the condominium property and the operation of the Association.

4.22 "Unit" has the same meaning as the term "Unit" as defined in the Condominium Act.

4.23 "Unit Owner" has the same meaning as the term "Unit Owner" as defined in the Condominium Act, except that for the purpose of interpreting use and occupancy restrictions related to Units, in cases where a primary occupant has been designated for a Unit because of its ownership, the word "Owner" refers to the primary occupant and not the record Owner.

4.24 “Voting Interests” means and refers to the arrangement established in the condominium documents by which the Owners of each Unit collectively are entitled to one vote in Association matters. There are fifty-eight (58) units, so the total number of voting interests of this Condominium is fifty-eight (58) votes.

5. DESCRIPTION OF IMPROVEMENTS; SURVEY AND PLANS: Each Unit, together with space within it, and together with all appurtenances thereto, for all purposes, constitutes a separate parcel of real property, which may be owned in fee simple and which may be conveyed, transferred and encumbered in the same manner as any other parcel of real property, independently of all other parts of the property, subject only to the provisions of this Declaration and applicable laws.

5.1 Survey and Plot Plans. Attached to the original Declaration as Exhibit B and incorporated by reference herein, is a survey of the Land and plot plans, which graphically describe the improvements in which Units are located, and which show all the Units, including their identification numbers, locations and approximate dimensions and the common elements and limited common elements. Together with this Declaration, that exhibit identifies each Unit, the common elements and limited common elements, and their relative locations and dimensions.

5.2 Unit Boundaries. Each Unit shall include that part of the Building containing the Unit that lies within the boundaries of the Unit, which boundaries are as follows:

5.2.1 Upper and Lower Boundaries. The upper and lower boundaries of the Units shall be the following boundaries extended to their planar intersections with the perimeter boundaries:

- (1) Upper Boundaries. The horizontal plane or planes of the unfurnished lower surface of the ceiling of the unit.
- (2) Lower Boundaries. The horizontal plane of the unfurnished upper surface of the concrete floor of the unit.

5.2.2 Perimeter Boundaries. The perimeter boundaries of the Unit are the vertical planes of the unfinished interior surfaces of the plasterboard or drywall bounding the Unit as shown in Exhibit “B” to the original Declaration as incorporated herein, extended to their intersections with each other and with the upper and lower boundaries.

5.2.3 Interior Walls. Interior partition walls within an apartment are part of the unit.

5.2.4 Apertures. Where there are openings in any Unit boundary, including, without limitation, windows, doors, bay windows and skylights, the boundaries of the Unit extend to the interior unfinished surfaces of the coverings and such openings, and their frameworks thereof. Accordingly, such windows, doors, screens, skylights, and related framing, castings and hardware, are outside the Unit.

5.2.5 Utilities. All pipes, wiring, ducts or other utility equipment or installations that are physically within the above-described unit boundaries, but which serve any other unit or the common elements, are themselves common elements.

5.2.6 Exceptions. In cases not specifically covered in this Section 5.2, or in any case of conflict or ambiguity, the graphic depictions of the unit boundaries set forth in Exhibit "B" of the original Declaration, which is incorporated by reference hereto, shall control in determining the boundaries of a unit. Nothing herein shall be construed as purporting to change the boundaries of the units as provided in the original Declaration.

6. CONDOMINIUM PARCELS; APPURTENANCES AND USE:

6.1 Shares of Common Ownership. The undivided share of ownership of the common elements and common surplus appurtenant to each Unit is a fraction of the whole, the numerator of which is the number of square feet of interior floor space in the unit, according to the floor plans attached as part of Exhibit "B" to the original Declaration and the denominator of which is the number ninety-four thousand five hundred twenty (94,520), which is the planned total interior square footage of all the units combined. Each unit's share of liability for common expenses will be the same as its share of the ownership of the common elements appurtenant to each unit. The square footage figures used for each unit type, and the number of units of each type to be included in the Condominium is:

Types 1 & 2 (Channel Mark)	19 units	1440 sq. ft.
Types 3 & 4 (Tide Water)	20 units	1840 sq. ft.
Types 5 & 6 (Gulf Mist)	19 units	1630 sq. ft.

6.2 Appurtenances to Each Unit. The Owner of each Unit shall have certain rights and own a certain interest in the condominium property, including but not limited to, the following:

- (A) The undivided share in the common elements and the common surplus, as specifically set forth in Section 6.1 above.
- (B) Membership and voting rights in the Association, which shall be acquired and exercised as provided in the Articles of Incorporation and the Amended and Restated Bylaws of the Association, attached hereto as Exhibits "B" and "C", respectively.
- (C) The exclusive right to use the limited common elements, including but not limited to terraces, lanais and parking spaces, reserved for the Unit, and the right to use the common elements.
- (D) An exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time. An easement in airspace which is vacated shall be terminated automatically.
- (E) Other appurtenances as may be provided in this Declaration and its exhibits, provided however that such appurtenances shall be subject to the easements for the benefit of other Units and the Association.
- (F) Other appurtenances (if any) as may be provided in this Declaration.

Each Unit and its appurtenances constitutes a "condominium parcel". No unit or parcel may be divided or any fractional portion sold, leased or otherwise transferred. The use of the units and the

common elements shall be governed by the condominium documents, and by rules and regulations adopted by the Association, through its Board of Directors, as authorized in the Bylaws.

6.3 Waterside Master Declaration. The Condominium is located within the Waterside Complex in Lee County, Florida. All real property that does comprise or will comprise the Waterside Complex is subject to the Declaration of Covenants, Conditions and Restrictions for Bayside, as recorded in Book 2831, at Pages 3711, et seq., of the Official Records of Lee County, Florida, and all recorded amendments and exhibits thereto. The Master Declaration provides for the creation of Waterside Master Association, Inc., a Florida corporation not for profit, charged with the operation of the Common Areas of the Waterside Complex, and the enforcement of the provisions of the Master Declaration. The Master Association assesses and bills each owner separately for the assessments.

6.4 Estero Bay Improvement Association. The Waterside Complex is located within a larger scale residential development known as Bay Beach, located in Lee County, Florida. All real property in Bay Beach is subject to the Declaration of Estero Bay Development Corporation Improvements, Restrictions, Conditions and Covenants, as recorded in Book 1134, at Pages 1445 et seq., of the Official Records of Lee County, Florida, and all recorded exhibits thereto, as amended. Said Declaration provides for the creation of Estero Bay Improvement Association, Inc., a Florida corporation not for profit ("E.B.I.A."), charged with the operation of the Common Areas of Estero Bay, and enforcement of the provisions of said Declaration. The Condominium Association is a member of E.B.I.A., and is assessed for a share of its costs of operation. The assessments paid by the Association to E.B.I.A. are common expenses of this Condominium.

6.5 Use and Possession. A Unit Owner is entitled to exclusive use and possession of his or her Unit. He is entitled to use the common elements in accordance with the purposes for which they are intended, but no use of the Unit or of the common elements may unreasonably interfere with the rights of other Unit Owners or other persons having rights to use the condominium property. No Unit may be divided or any fractional portion sold, leased or otherwise transferred. The use of the Units, common elements and limited common elements shall be governed by the condominium documents and by the rules and regulations adopted by the Association, through its Board of Directors, as provided in of the Bylaws.

7. COMMON ELEMENTS; EASEMENTS:

7.1 Definition. The term "common elements" means all portions of the condominium property not included within the Units, and includes without limitation the following:

- (A) The Land.
- (B) All improvements and portions of improvements not included within the boundaries of a Unit.
- (C) Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utilities, wastewater treatment and other services to Units and the Common Elements.
- (D) The property and installations required for the furnishing of utilities and other services to more than one Unit or to the Common Elements and for the furnishings of wastewater treatments (sewer) services to the Units provided that such property and installments are located within the Condominium Property.

- (E) Any other parts of the Condominium Property designated as Common Elements in this Declaration.

7.2 Easements. In addition to easements of record and those shown in Exhibit "B" to the original Declaration incorporated herein, each of the following easements is hereby reserved over, across, through and under the condominium property, and the rights and burdens thereof are covenants running with the Land. Notwithstanding any other provisions of this Declaration, these easements may not be revoked, and shall survive the exclusion of any land from the Condominium. None of the easements specified in this Section 7.2 may be encumbered by any leasehold or lien other than those encumbering the condominium parcels. Any lien encumbering these easements shall automatically be subordinate to the rights of unit owners with respect to such easements.

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

7.2.2 Encroachments. If any unit encroaches upon any common elements, or upon any other unit for any reason other than the intentional or negligent act of the owner of the encroaching unit; or if any common element encroaches upon any unit for any reason other than the wrongful or unlawful act of the Association, an easement for that encroachment shall exist as long as the encroachment exists. Nothing herein shall be construed as excusing any person who wrongfully or unlawfully creates such encroachments from being required to eliminate an encroachment or compensate the owner of the property encroached upon for any damages that may result from the encroachment.

7.2.3 Ingress and Egress. A non-exclusive easement shall exist in favor of each unit owner and occupant, their respective Guests, tenants, contractors, and invitees 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 or intended for such purposes, and for purposes of ingress and egress to the public ways.

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

7.2.5 Additional Easements. The Association, acting through its Board of Directors, may grant additional water, sewer, electric, gas, telephone or other utility or service easements or relocate existing easements in any portion of the condominium property, and to grant access or other easements or relocate any existing easements over, under or through any portion of the condominium property, as the Association deems necessary or desirable, for the operation and maintenance of the improvements, or any portion thereof, or for the general health and welfare of the unit owners, or for the purpose of carrying out any provisions of this Declaration, provided that such easements may not prevent or unreasonably interfere with the use of the units for their intended purposes.

7.2.6 Easement to Air Space. The appurtenances shall include an exclusive easement for the use of the air space occupied by the Unit as it exists at any particular time and as it may be altered or reconstructed from time to time, which easements shall be terminated automatically in any air space which is vacated from time to time.

7.2.7 Maintenance, Repair and Replacement. A non-exclusive easement shall exist in favor of the Association and its employees, agents and hired contractors through the units and common elements for maintenance, repair and replacements.

7.2.8 Association Easements. The Association shall have a non-exclusive and perpetual easement to enter upon, across, above and under the Condominium property, including any Common Elements and any part of the Condominium, to perform its responsibilities, including without limitation, maintenance, repair, inspection and replacement of any portions of the Condominium property or facilities located thereon. Furthermore, the Association may exercise all easement rights to perform any maintenance, repair, replacement or upkeep that the Association is obligated to properly perform as required or authorized in accordance with this Declaration or as necessary to carry out the rights of the Association. The exercise of this easement shall not unreasonably interfere with the use of any Unit, and except in an emergency, entry into any Unit will only be made after a reasonable attempt is made to notify the Owner or occupant.

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

8. LIMITED COMMON ELEMENTS:

8.1 Description of Limited Common Elements. Certain common elements have been designated as limited common elements, reserved for the use of a particular Unit or Units, to the exclusion of the other Units. The limited common elements and the Units to which their use has been designated are as described in this Declaration and as further identified on the survey and plot plan set forth in Exhibit "B" to the original Declaration incorporated by reference herein. The following common elements are hereby designated as limited common elements:

8.1.1 Parking Spaces. Each unit shall always have as an appurtenance the exclusive right to use one of the numbered parking spaces located under the building as shown in Exhibit "B" to the original Declaration and as further assigned/ transferred according to the records of the Association.

8.1.2 Air Conditioning and Heating Equipment. All equipment, fixtures and installations located outside of a unit, which furnish air conditioning or heating exclusively to it, shall be limited common elements the exclusive use of which is appurtenant to the unit.

8.1.3 Lanais. The usable airspace above the concrete slab of the lanai that is attached to and exclusively serves each unit is a limited common element.

8.1.4 Storage areas. Two (2) storage areas, one on the ground level and one on the floor of the building on which the unit is located, are assigned to each unit as limited common



elements. The storage areas are shown in Exhibit "B" to the original Declaration and incorporated herein and as further assigned/ transferred according to the records of the Association. .

8.1.5 Mechanical Closets. Each unit is served exclusively by a mechanical closet located on the same floor as the unit, accessible only from the elevator lobby. Use of this closet as a storage area is prohibited.

8.1.6 Others. Any other part of the common elements that is connected to and exclusively serves a single unit, is accessible to the owner of that unit, and is specifically required in Section 11 of this Declaration to be maintained, repaired or replaced by, or at the expense of, the unit owner, shall be deemed a limited common element, whether specifically described above or not.

8.2 Exclusive Use; Transfer of Use Rights. The right of exclusive use of each limited common element passes with the unit to which it is attached or assigned, whether separately described in the instrument of conveyance or not, and cannot be separated from the unit; except that the use rights to particular parking places or storage areas may be exchanged between units; or transferred to another unit, as follows:

- (A) The unit owners desiring to exchange such use rights shall submit a written request to the Board of Directors. If the Board approves the exchange, the owners involved and the Association shall then execute a Certificate of Transfer which shall include the recording data identifying this Declaration, and be executed by the Association and the owners of the units involved with the formalities required for the execution of a deed.
- (B) The transfer of use rights shall be complete and effective when the Certificate is recorded in the Public Records of Lee County, Florida. The costs of preparing and recording the Certificate shall be borne by the unit owners desiring the exchange or transfer.

Under no circumstances shall any unit be without one (1) assigned covered parking space.

9. ASSOCIATION: The operation of the Condominium is by Waterside III at Bay Beach Condominium Association, Inc., a Florida corporation not for profit, which performs its function pursuant to the following:

9.1 Articles of Incorporation. A copy of the Articles of Incorporation of the Association is attached hereto as Exhibit "B," as they may be amended from time to time.

9.2 Bylaws. The Bylaws of the Association shall be the Amended and Restated Bylaws attached hereto as Exhibit "C", as they may be amended from time to time.

9.3 Delegation of Management. The Association may contract for the management and maintenance of the condominium property and authorize a licensed management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of assessments, keeping of records, enforcement of rules and maintenance, repair and replacement of the common elements with funds made available by the Association for such purposes. The Association and its officers however, shall retain at all times the powers and duties provided in the Condominium Act.

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

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

9.6 Powers and Duties. The powers and duties of the Association include those set forth in the Condominium Act and the condominium documents. The Association may contract, sue, or be sued with respect to the exercise or non-exercise of its powers and duties. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the condominium property and association property. The Association may impose fees for the use of common elements or association property. The Association has the power to enter into agreements to acquire leaseholds, memberships and other ownership, possessory or use interests in lands or facilities, whether or not the lands or facilities are contiguous to the lands of the Condominium, for the use and enjoyment of the Unit Owners. The acquisition of additional real property by the Association shall not be deemed a material change in the appurtenances to the Units.

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

9.8 Purchase of Units. The Association has the power to purchase one or more Units in the Condominium, and to own, lease, mortgage, or convey them, such power to be exercised by the Board of Directors.

9.9 Acquisition of Property. The Association has the power to acquire property, both real and personal. The power to acquire personal property shall be exercised by the Board of Directors. Except as otherwise provided in Section 9.8 above, the power to acquire ownership interests in real property shall be exercised by the Board of Directors, but only after approval by at least a majority of the Voting Interests. No Owner vote is required for the acquisition of a Unit pursuant to Section 9.8 above.

9.10 Disposition of Property. Any property owned by the Association, whether real, personal or mixed, may be mortgaged, sold, or otherwise encumbered or disposed of by the approval of the Board of Directors, without need for authorization by the Unit Owners. Except as provided in Section 9.8 above, any real property owned by the Association may be conveyed by the Board of Directors, but only after approval by at least a majority of the Voting Interests. The Board of Directors shall have the authority to convey personal property without the need for authorization by the Unit Owners.

9.11 Roster. The Association shall maintain a current roster of names and mailing addresses of unit owners. A copy of the roster shall be provided to any member upon request.

9.12 Deed Restrictions. The Condominium Property, together with all of the lands which may be subject to administration by the Waterside Master Association, are subject to certain easements, reserved rights and other provisions contained in that certain deed recorded in O.R. Book 2661, Page 3828, Public Records of Lee County, Florida, and are incorporated by reference into this Declaration.

9.13 Association Emergency Powers.

(I) The Board, in response to damage caused by an event for which a state of emergency is declared pursuant to Florida Statutes Section 252.36 in the locale in which the condominium is located, may, but is not required to, exercise the following powers;

- (A) Conduct Board meetings and Membership meetings with notice given as is practicable. Such notice may be given in any practicable manner, including publication, radio, United States mail, the Internet, public service announcements, and conspicuous posting on the Condominium Property or any other means the Board deems reasonable under the circumstances. Notice of Board decisions may be communicated as provided in this paragraph.
- (B) Cancel and reschedule any Association meeting.
- (C) Name as assistant officers persons who are not directors, which assistant officers shall have the same authority as the executive officers to whom they are assistants during the state of emergency to accommodate the incapacity or unavailability of any officer of the Association.
- (D) Relocate the Association's principal office or designate alternative principal offices.
- (E) Enter into agreements with local counties and municipalities to assist counties and municipalities with debris removal.
- (F) Implement a disaster plan before or immediately following the event for which a state of emergency is declared which may include, but is not limited to, electricity; water, sewer, or security systems; or air conditioners.
- (G) Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the Board, determine any portion of the Condominium Property unavailable for entry or occupancy by Unit Owners, family members, tenants, Guests, agents, or invitees to protect the health, safety, or welfare of such persons.
- (H) Require the evacuation of the Condominium Property in the event of a mandatory evacuation order in the locale in which the condominium is located. Should any Unit Owner or other occupant of a condominium fail or refuse to evacuate the Condominium Property where the Board has required evacuation, the Association shall be immune from liability or injury to persons or property arising from such failure or refusal.
- (I) Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the Board, determine whether the Condominium Property can be safely inhabited or occupied. However, such determination is not conclusive as to any determination of habitability pursuant to the Declaration.
- (J) Mitigate further damage, including taking action to contract for the removal of debris and to prevent or mitigate the spread of fungus, including, but not limited to, mold or mildew, by removing and disposing of wet drywall, insulation, carpet, cabinetry, or other fixtures on or within the Condominium Property, even if the Unit Owner is obligated by the

Declaration or law to insure or replace those fixtures and to remove personal property from a Unit.

- (K) Contract, on behalf of any Unit Owner or Owners, for items or services for which the Owners are otherwise individually responsible for, but which are necessary to prevent further damage to the Condominium Property. In such event, the Unit Owner or Owners on whose behalf the Board has contracted are responsible for reimbursing the Association for the actual costs of the items or services, and the Association may use its lien authority provided by Florida Statutes Section 718.116 to enforce collection of the charges. Without limitation, such items or services may include the drying of Units, the boarding of broken windows or doors, and the replacement of damaged air conditioners or air handlers to provide climate control in the Units or other portions of the property.
- (L) Regardless of any provision to the contrary and even if such authority does not specifically appear in the Declaration of Condominium, Articles, or Bylaws of the Association, levy special assessments without a vote of the Owners.
- (M) Without Unit Owners' approval, borrow money and pledge Association assets as collateral to fund emergency repairs and carry out the duties of the Association when operating funds are insufficient. This paragraph does not limit the general authority of the Association to borrow money, subject to such restrictions as are contained in the Declaration of Condominium, Articles, or Bylaws of the Association.

(2) The special powers authorized under subsection (1) shall be limited to that time reasonably necessary to protect the health, safety, and welfare of the Association and the Unit Owners and Unit Owner's family members, tenants, Guests, agents, or invitees and shall be reasonably necessary to mitigate further damage and make emergency repairs.

9.14 Limitation on Liability. Notwithstanding its duty to maintain and repair condominium or association property, the Association shall not be liable to Unit Owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or Unit Owners or other persons.

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

10.1 Common Expenses. Common expenses include all expenses of the operation, maintenance, repair, replacement or insurance of the common elements and association property, the expenses of operating the Association, and any other expenses properly incurred by the Association for the Condominium, including any amounts budgeted for the purpose of funding reserve accounts and EBIA fees. If the Board of Directors determines that purchasing cable, satellite television programming, communications services as defined in Chapter 202, Florida Statutes, information services or internet services in bulk for the entire Condominium is in the best interest of the Owners, the cost of such service or services shall be a common expense.

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

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

10.4 Who is Liable for Assessments. The Owner of each Unit, regardless of how title was acquired, is liable for all assessments or installments thereon coming due while he is the Owner. Multiple Owners are jointly and severally liable. Except only as required by law as to First Mortgagees, whenever title to a condominium parcel is transferred for any reason, the transferee is jointly and severally liable with the transferor for all unpaid assessments against the transferor, regardless of when incurred, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee.

10.5 No Waiver or Excuse from Payment. Liability for assessments may not be avoided or abated by waiving the use or enjoyment of any common elements, by abandonment of the Unit for which the assessments are made, or by interruption in the availability or accessibility of the Unit or the common elements for any reason whatsoever. No Unit Owner may ever be excused from payment of his or her share of the common expenses unless all Unit Owners are likewise proportionately excused from payment, except as provided in Section 10.9 below as to certain mortgagees. Nothing in this Section 10.5 is intended to prevent the Association from compromising or settling a claim for past due assessments or other monetary amounts owed for less than full payment if the Board determines that such action is in the best interest of the Association.

10.6 Application of Payments; Failure to Pay; Interest. Assessments and installments thereon paid on or before ten (10) days after the date due shall not bear interest, but all sums not so paid shall bear interest at the highest rate allowed by law, calculated from the date due until paid as well as late fees calculated at the highest rate allowed by law, currently twenty-five dollars (\$25.00) per assessment or five (5%) percent of the delinquent assessment, whichever is higher. Assessments and installments thereon shall become due, and the Unit Owner shall become liable for said assessments or installments, on the date established in the Bylaws or otherwise set by the Association for payment. All payments on account shall be applied to interest, delinquencies, court costs and attorney's fees, other charges, and regular or special assessments, in such manner and amounts as the Board of Directors may determine. The Association may refuse to accept a partial payment which bears a restrictive endorsement and such will be the equivalent of no payment. No payment by check is deemed received until the check has cleared.

10.7 Acceleration. If any special assessment or regular installment as to a Unit becomes more than thirty (30) days past due, and a Claim of Lien is recorded, the Association shall have the right to accelerate the due date of the entire unpaid balance of the Unit's annual assessment for that fiscal year as if said balance had originally been due on the date the Association's Claim of Lien was recorded. The Association's Claim of Lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, attorney's fees and costs as provided by law; and said Claim of Lien shall not be satisfied or released until all sums secured by it have been paid. The right to accelerate shall be exercised by sending to the delinquent Owner a notice of the exercise, which notice shall be sent by certified or registered mail to the Owner's last known address, and shall be deemed given upon mailing of the notice, postpaid. The notice may be given as part of the notice of intent to foreclose as required by Section 718.116 of the Condominium Act, or may be sent separately.

10.8 Liens. The Association has a lien on each condominium parcel securing payment of past due assessments, including interest and attorney's fees and costs incurred by the Association incident to the collection of the assessment or enforcement of the lien, whether before, during or after a lien foreclosure suit, and for all sums advanced and paid by the Association for on behalf of a Unit Owner in order to preserve and protect the Association's lien, including but not limited to taxes, payments on account of superior mortgages, payments of liens or encumbrances. The lien is perfected upon recording a Claim of Lien in the Public Records of Lee County, Florida, stating the description of the condominium parcel, the name of the record Owner, the assessments past due and the due dates. The lien is in effect until barred by law. The Claim of Lien secures all unpaid assessments and charges coming due prior to a final judgment of foreclosure. Upon full payment, the person making the payment is entitled to a satisfaction of the lien.

10.9 Priority of Lien. The Association's lien for unpaid assessments shall be subordinate and inferior to any recorded first mortgage, but only to the least extent required by the Condominium Act as amended from time to time, and shall be superior to, and take priority over, any other mortgage or other encumbrance regardless of when the mortgage was recorded. Any lease of a Unit shall be subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed.

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

10.11 Certificate As To Assessments. Within ten (10) business days after receipt of a written or electronic request by a Unit Owner or mortgagee, or their designees, the Association shall provide a certificate stating whether all assessments and other monies owed to the Association by the Unit Owner with respect to the condominium parcel have been paid. Any person other than the Owner who relies upon such certificate shall be protected thereby. Notwithstanding any limitation on transfer fees contained in Section 718.112(2)(i) of the Condominium Act, the Association or its authorized agent may charge a reasonable fee for the preparation of the certificate. The amount of the fee must be included on the certificate. The authority to charge a fee for the certificate must be established by a written resolution adopted by the Board or provided by a written management, bookkeeping, or maintenance contract and is payable upon the preparation of the certificate. The refund is the obligation of the Owner, and the Association may collect it from that Owner in the same manner as an assessment as provided in Section 718.116 of the Condominium Act. The Association or its authorized agent is not required to provide a prospective purchaser or lienholder with information about the Condominium or the Association other than information or documents required by the Condominium Act to be made available or disclosed. The Association or its authorized agent may charge a reasonable fee, not to exceed the amount permitted by the Condominium Act, to a prospective purchaser, lienholder, or the Owner for providing good faith responses to requests for information by or on behalf of a prospective purchaser or lienholder, other than information required by law to be made available or disclosed. The Association and its authorized agent are not liable for providing such information in good faith pursuant to a written request if the person providing the information includes a written statement in substantially the following form: "The responses herein are made in good faith and to the best of my ability as to their accuracy".

10.12 Enforcement Against Lessees. Subject to the procedures and limitations set forth in Section 718.116(11) of the Condominium Act, if a Unit is occupied by a lessee and the Owner is delinquent in paying any monetary obligation due to the Association, the Association may make a written demand that the lessee pay the subsequent rental payments and continue to make such payments until all monetary obligations of the Owner related to the Unit have been paid in full to the Association. The lessee must pay the monetary obligations to the Association until the Association releases the lessee or the

lessee discontinues tenancy in the Unit. The Association may evict the lessee if the lessee fails to make a required payment to the Association.

In the event that Section 718.116(11) is removed from the Condominium Act, the remainder of this Section 10.12 shall be applicable to the Association's ability to collect rent from a lessee. If an Owner has leased his or her Unit and the Owner becomes delinquent in paying any monetary obligation due to the Association, the Association may make a written demand that the lessee pay to the Association the subsequent rental payments and continue to make such payments until all monetary obligations of the Owner related to the Unit have been paid in full to the Association. The lessee must pay the monetary obligations to the Association until the Association releases the lessee or the lessee discontinues tenancy in the Unit. If the lessee paid rent to the Owner for a given rental period before receiving the demand from the Association and provides written evidence to the Association of having paid the rent within fourteen (14) days after receiving the demand, the lessee shall begin making rental payments to the Association for the following rental period and shall continue making rental payments to the Association to be credited against the monetary obligations of the Owner until the Association releases the lessee or the lessee discontinues tenancy in the Unit. The liability of the lessee may not exceed the amount due from the lessee to the Owner. The Owner shall provide the lessee a credit against rents due to the Owner in the amount of moneys paid to the Association. The Association may evict the lessee if the lessee fails to make a required payment to the Association. However, the Association shall not be considered a landlord under Chapter 83, Florida Statutes. The lessee shall not, by virtue of payment of monetary obligations to the Association, have any of the rights of an Owner. The Board shall have the authority as a condition of approving a lease to require that the lessee and the Owner enter into a lease addendum that provides that all lease payments shall be paid to the Association during such time as the Owner is delinquent in paying any monetary obligation owed to the Association. Alternatively, the Association may require that such language be included in the lease.

11. MAINTENANCE; LIMITATIONS UPON ALTERATIONS AND IMPROVEMENT:

Responsibility for the protection, maintenance, repair and replacement of the condominium property, and restrictions on its alteration and improvement shall be as follows:

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

- (A) The painting of the exterior surface of the main entrance doors to the Units.
- (B) Electrical wiring up to the circuit breaker panel in each Unit.
- (C) All sewer lines, up to the point where the common sewer lines connect to the individual Unit sewer line.
- (D) All installations, fixtures and equipment located within one Unit but serving another Unit, or located outside the Unit and serving more than one Unit, for the furnishing of utilities to more than one Unit or the common elements.
- (E) All exterior building walls including painting, waterproofing and caulking.
- (F) The main exterior water supply shut-off valve serving the unit and water pipes up to, but excluding, the individual Unit water supply shut-off valve within the unit.

- (G) Plumbing for fire suppression and the fire suppression system equipment or other fire safety equipment.
- (H) All exterior hose bibs and associated valves and piping.
- (I) Outside vent and cages for clothes dryer.
- (J) Cable television lines, up to the wall outlets in the Units.

The Association's responsibility does not include interior wall switches or receptacles, plumbing fixtures, or other electrical, plumbing or mechanical installations located within a Unit or serving only that Unit. All incidental damage caused to a Unit or limited common elements by work performed or ordered to be performed by the Association shall be promptly repaired by the Association if the Association is otherwise responsible for the repair and replacement responsibility under the Declaration. Otherwise, the Association is not responsible for incidental damage incurred during its performance of its maintenance, repair and replacement obligations. However, the Association shall not be responsible for the damage to any alteration or addition to the common elements or limited common elements made by the Unit Owner or his or her predecessor in title. Neither shall the Association be responsible for repair nor restoration costs if the need for work was caused by the negligence of the Owner, the Owner's predecessor in interest or any individual hired by either of them.

11.2 Unit Owner Maintenance. Each Unit Owner is responsible, at his or her own expense, for all maintenance, repairs, and replacements of his or her own Unit and certain limited common elements. The Owner's responsibility includes, without limitation:

- (A) Maintenance, repair and replacement of all windows and window glass, window hardware and casings, window and lanai screening, including screening materials, and hurricane shutters or other storm protection.
- (B) Sliding glass doors and related frameworks, casings, hardware and locks.
- (C) The main entrance door to the unit and related entrance door frameworks, hardware and locks and weather-stripping, other than the painting of the exterior surface.
- (D) All other doors within or affording access to the unit or lanai or terrace and related door frameworks, hardware and locks and weather-stripping.
- (E) The water and sewer fixtures (including connections) located within the Unit or serving only the Unit and the individual Unit water supply shut-off valve within the unit. The Unit Owner is responsible, notwithstanding any other provisions in this Declaration, for locating, repairing and replacing such water and sewer pipes and other system components located within or only serving the Unit, inclusive of drywall removal, repair and replacement as necessary. Any incidental damage caused to the common elements which are the Association's responsibility to repair and replace shall be accomplished by, and at the cost of, the unit owner who must obtain the prior approval of the Board or its designee before performing such work. The Association may, at the Board or its designee's



discretion, determine that the work to remove, repair or replace the common elements will be performed by the Association at the cost of the owner.

- (F) Appliances, water heaters, smoke alarms and vent fans.
- (G) All air conditioning, and heating equipment, thermostats, ducts and installations serving the Unit exclusively whether located within or outside of the Unit.
- (H) The circuit breaker panel serving the Unit and all electrical wiring going into the unit from the panel and all switches, receptacles, and fixtures in the Unit. The unit owner is responsible, notwithstanding any other provisions in this Declaration, for locating, repairing and replacing such electrical wiring set forth above, inclusive of drywall removal, repair and replacement as necessary. Any incidental damage caused to the common elements which are the Association's responsibility to repair and replace shall be accomplished by, and at the cost of, the unit owner who must obtain the prior approval of the Board or its designee before performing such work. The Association may, at the Board or its designee's discretion, determine that the work to remove, repair or replace the common elements will be performed by the Association at the cost of the owner.
- (I) Carpeting and other floor coverings.
- (J) Shower pans serving the Unit.
- (K) All exterior light fixtures and bulbs controlled by switches from the interior of the Unit.
- (L) Other facilities or fixtures which are located or contained entirely within the Unit and serve only the Unit.
- (M) All interior, partition walls which do not form part of the boundary of the Unit.
- (N) Interior clothes dryer vent ductwork, including preventative cleaning.

11.2.1 If a Unit Owner is responsible for repairing and replacing an item located within the common elements, the Unit Owner shall be responsible for the repair or replacement of any incidental damage caused to the common elements and the cost of that work. The Unit Owner must obtain the prior written approval of the Board or its designee before performing such work. The Association may, at the Board or its designee's discretion, determine that the work to remove, repair or replace the common elements in furtherance of the work will be performed by the Association at the cost of the Owner.

### 11.3 Other Unit Owner Responsibilities:

11.3.1 Lanais and Terraces. Where a limited common element consists of lanais, the Unit Owner who has the right of exclusive use of the area shall be responsible for the day-to-day cleaning and care of the walls, floor and ceiling bounding said area, if any; and all fixed glass and sliding glass doors (and related frameworks, hardware and locks); and the wiring, electrical outlet(s) and fixture(s) thereon, if any, and the replacement of light bulbs. No part or portion of any lanai may be tiled, covered, or enclosed without the prior written approval of the board. Painting of the walls within the

screened-in portion of the Unit Owner's lanai is the Association's responsibility. If the Unit Owner tiled, covered, or enclosed his or her lanai, with written approval of the Board of Directors, the maintenance, repair, replacement and insurance of such approved tile, covering, or enclosure shall be the responsibility of the Unit Owner, including in cases where the covering or enclosure has to be removed in order for the Association to perform maintenance, repairs or replacement. The Association is responsible for the maintenance, repair and replacement of all exterior walls of the building and all concrete slabs. The owner is responsible for the cost of any repairs to the waterproofing membrane of the concrete necessary due to the owner's installation of floor covering on the lanai. All lanai screen or glass framing shall have weep holes to provide proper drainage from the Unit's lanai. The Terraces are located above the garages for Units 312, 313, 314 and 315. The Unit Owner who has the right of exclusive use of a Terrace shall be responsible for the day-to-day cleaning and care of the walls, floor and ceiling bounding said area, if any. The Association is responsible for the maintenance and repair of the Terraces, including painting and the repair and replacement of the railing and surface floor covering.

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

11.3.3 Flooring. All flooring installed in Units shall be subject to the prior approval of the Association and consistent with any Rules and Regulations adopted by the Board as to appropriate and required underlayment and material. All units above the ground floor shall have the floors covered with wall-to-wall carpeting installed over high quality padding, except carpeting is not required in kitchens, bathrooms, foyers or laundry rooms. Notwithstanding the preceding sentence, a Unit Owner who desires to replace carpeting or install any hard-surface floor covering (e.g. marble, slate, ceramic tile, parquet) anywhere within the Unit shall also install a sound-absorbent underlayment of such kind and quality as to substantially reduce the transmission of noise to adjoining Units, and must obtain written approval of the Board of Directors prior to any such installation. The Board has the authority to adopt specifications for minimum sound proofing underlayment that will be approved. The Board has right to inspect the Unit during the installation and has the authority to stop the work if there is no underlayment or the underlayment does not meet the standards set forth by the Association. If the installation is made without prior approval, or if after approved installation is made, noise creating an unreasonable amount of annoyance or nuisance emanates from the Unit, the Board may, in addition to exercising all the other remedies provided in this Declaration, require the unit owner to cover all such hard-surface flooring with carpeting, or require the removal of such hard-surface flooring at the expense of the offending unit owner. If other remedies fail, Association may replace such flooring as necessary, the cost of which will be the Unit Owner's responsibility and will be recoverable as an assessment against the Unit.

11.3.4 Window Coverings. The covering and appearance of windows and doors, whether by draperies, shades, or other items, whether installed within or outside of the Unit, visible from the exterior of the Unit, shall be subject to the rules and regulations of the Association. All curtains, blinds, shades and other window coverings shall be of such construction, material and installation so that the only color visible from the outside is neutral color.

11.3.5 Air Conditioning Maintenance; Washing Machine Hoses; Water Turn-Off. Owners are responsible for the ongoing air conditioning (HVAC) maintenance service in their Units, unless the Association has contracted for that service, which the Association may, but is not obligated, to do. If the Association does not contract for HVAC maintenance on behalf of Owners, Owners shall contract for, at least twice annually, maintenance of their HVAC system. A Unit Owner shall provide proof of such service within five (5) business days of the Association's written request. If a Unit Owner fails to contract for such service, or provide proof of such service, within the required time frame, the

Association may, but is not obligated to, proceed to arrange for such HVAC maintenance and charge the cost to the Owner's unit. If the Association determines, as part of its routine maintenance, that any repairs are needed to the HVAC system, the Owner shall perform such work within thirty (30) days or the Association may, but is not required to, perform the work and recover the cost from such Owner. If an Owner fails to maintain his or her air conditioning system and the air conditioning system fails, the Owner will be strictly liable for all damage caused to the Unit, the Common Elements, Association Property, other Units, or any other property damaged by such leak. All washing machine hoses must be stainless steel wrapped, and if not stainless steel wrapped, must be replaced with stainless steel wrapped hoses. If an Owner fails to have stainless steel wrapped hoses on his or her washing machine and if a leak occurs in his or her washing machine hose, the owner will be strictly liable for all damage caused to the unit, the common elements, association property, other units, or any other property damaged by such leak. Water heaters, refrigerators, dishwashers, and other appliances that require a potable water supply should be periodically inspected and maintained, especially if past the warranty period. The Board shall have the authority to enact rules and regulations for appliances, including material standards and useful life, in order to protect the common elements and units from casualty loss events, including water damage. All main water valves shall be a ball valve. Water heaters, ball valves and washing machine hoses shall be replaced by Unit Owners every fifteen (15) years. An owner is responsible for the water, and the power to the hot water heater, being turned off in a unit if the unit will be unoccupied for 48 hours or more. If the water is not turned off in such instances and a leak occurs, the owner will be strictly liable for all damages caused to the unit, the common elements, association property, other units or any other property which is damaged by such leak.

All Unit Owners, whether or not occupying their Unit, shall continually operate their Unit's air conditioning system to maintain the Unit temperature, at no more than 78 degrees Fahrenheit, and any humidistat at the manufacturer's recommended level.

If a Unit remains unoccupied for more than fifteen (15) consecutive days, the Unit Owner shall:

(A) prior to the period the Unit is unoccupied, lock and secure the glass sliders. All electrical devices and rugs must be removed from the lanai or terrace. For Units without hurricane shutters surrounding their lanais, Owners must store all items located on their lanai inside their Unit during the entire period the Unit remains unoccupied;

(B) during the entire period the Unit remains unoccupied, have the Unit checked at least one time every calendar month by a home watch service or other individual whose name and contact information has been provided to the Association as set forth in Section 11.8 below.

11.3.6 Modifications and Alterations. If a Unit Owner makes any material modifications, alterations, installations or additions to his or her Unit or modifications, alterations, installations or additions to the common elements (or limited common elements) or neglects to maintain, repair or replace those items for which the Unit Owner is responsible, the Unit Owner and his or her successors in title shall be financially responsible for the maintenance, repair, replacement and insurance of the modifications, installations, alterations or additions, as well as the cost of repairing any damage to the common elements or other Units resulting from same. Material alterations include, but are not limited to, plumbing, electrical, or structural modifications, work that causes noise to emanate from a Unit, or work that requires a permit. The Unit Owner is further responsible for the cost of removing and replacing or reinstalling such modifications if their removal by the Association becomes necessary in order to maintain, repair, replace, or protect other parts of the Condominium property for which the Association is responsible. Material alterations, modifications, installations and additions to the Unit and alterations,

modifications, installations and additions to the common elements (including any limited common elements) must be approved by the Board of Directors.

11.3.7 Use of Licensed and Insured Contractors. Whenever a Unit Owner contracts for maintenance, repair, replacement, alteration, addition or improvement of any portion of the Unit or common elements (including Limited Common Elements) (hereinafter referred to as "Renovation" or "Remodeling"), whether with or without Association approval, such Owner shall be deemed to have warranted to the Association and its members that Owner's contractor(s) are properly licensed and fully insured and that the Unit Owner will be financially responsible for any resulting damage to persons or property. Unit Owners shall provide the Association with copies of the contractor's license and insurance within forty-eight hours of the Association's demand. The Unit Owner also agrees to comply with the requirements of Chapter 713, Florida Statutes and to indemnify the Association and its members from any construction liens which may attach to common elements and which are attributable to work performed by or for the benefit of the Unit Owner. The Association shall have control over the placement of certain items by any contractor, whether hired by the Association or an Owner, including without limitation the placement of the following: dumpsters, service vehicles, signage and any other tools or equipment used in the performance of the project. The Board of Directors shall have the authority to adopt rules and regulations regarding contractors on the Condominium Property, including, but not limited to, contractor's working hours and restrictions on the time and manner of equipment usage.

11.3.8 Duty to Report. Each unit owner should promptly report to the Association or its Board or agents any defect or needed repairs to Association Property.

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

11.5 Alteration to Units and Common Elements by Unit Owners. No Unit Owner shall make or permit the making of any material alterations or substantial additions to his or her Unit or the common elements (including limited common elements), or in any manner change the exterior appearance of any portion of the Condominium, without first obtaining the written approval of the Board of Directors, which approval may be denied if the Board of Directors determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to, the Condominium in part or in whole. Any glass, screen, curtain, blind, shutter, awning, or modifications, additions or installations which may be installed where visible from outside the Unit, are subject to regulation by the Board of Directors. No Unit Owner may alter the landscaping of the common elements in any way without prior Board approval. The Board of Directors may revoke or rescind any approval of an alteration or modification previously given, if it appears that the installation has had unanticipated, adverse effects on the Condominium.

Any alteration, addition, modification, repair or replacement (hereinafter "Work") in or to any portion of a unit by a Unit Owner shall comply with the following:

- (A) The allowed hours for a contractor to perform Work in the Condominium shall be set forth in the Rules and Regulations adopted by the Board.
- (B) The Board shall have the discretion to adopt rules and regulations limiting the completion date for portions of Work which may create noise which penetrates the unit. The Board may further require that certain equipment is used, prohibited or limited in time used, to avoid noise penetrating to other units.

A Unit Owner's failure to comply with the provisions of this Section, or a Unit Owner's violation of any of its terms, shall be grounds for requiring cessation of the Work, and the contractor and any of its employees or agents shall be prohibited from entering the Condominium. The Unit Owner shall be responsible for the cost of such enforcement, including but not limited to, the cost of towing, security, personnel time and attorney fees and costs, as applicable.

11.6 Alterations and Additions to Common Elements and Association Property By The Association. The protection, maintenance, repair, insurance and replacement of the common elements and Association Property is the responsibility of the Association and the cost is a common expense. Beyond this function, the Association shall make no material alteration of, nor substantial additions to, the common elements or the real property owned by the Association costing more than Thirty-Five Thousand dollars (\$35,000) in the aggregate in any calendar year without prior approval of at a majority of the voting interests who are present and voting, in person or by proxy, at an annual or special meeting called for that purpose. If work reasonably necessary to protect, maintain, repair, replace or insure the common elements or Association Property or to comply with any local, state or federal law or regulation also constitutes a material alteration or substantial addition to the common elements, no prior Unit Owner approval is required regardless of the cost of such work.

11.7 Enforcement of Maintenance. If after reasonable notice the Owner of a Unit fails to maintain the Unit or its appurtenant limited common elements as required in this Declaration, or fails to comply with other requirements of this Declaration including without limitation the obligations to obtain prior approval of the Board as set forth in this Section 11, the Association shall have the right to institute legal proceedings to enforce compliance, or may take any and all other lawful actions to remedy such violation, including but not limited to, entering the Unit, with or without notice to or consent of the tenant or Unit Owner, to repair, replace, or maintain any item which in the reasonable judgment of the Board of Directors may constitute a health or safety hazard to other property or residents or which has a material adverse effect on the appearance of the Condominium. Any expenses incurred by the Association in performing work within the Unit as authorized by this Declaration shall be charged to the Unit Owner, together with reasonable attorney's fees and other expenses or collection, if any, which expense shall be secured by a lien against the Unit and may be foreclosed in the same manner as common expenses.

11.8 Negligence; Damage Caused by Condition in Unit. The Owner of each Unit shall be liable for the expenses of any maintenance, repair or replacement of common elements, other Units, or personal property made necessary by his or her act or negligence, or by that of any member of his or her family or Guests, employees, agents, or tenants. Each Unit Owner has a duty to maintain his or her Unit, any limited common element appurtenant to the Unit (except those limited common elements required to be maintained by the Association, as provided in Section 11.1) and personal property therein, in such a manner as to prevent foreseeable and reasonably preventable damage to other Units, the common elements or the property of other Owners and residents. An Owner's failure to comply with any obligation under this Declaration or the Rules and Regulations related to the requirements that the main water valve to the Unit is turned off, and all windows and sliders are closed and latched/locked, when the

Unit is unoccupied for more than forty-eight (48) hours is gross negligence. If any condition, defect or malfunction, resulting from the Owner's failure to perform this duty causes damage to other Units, the common elements, association property or property within other Units, the Owner of the offending Unit shall be liable to the person or entity responsible for repairing the damaged property for all costs of repair or replacement not paid by insurance. If one or more of the Units involved is not occupied at the time the damage is discovered, the Association may enter the Unit without prior notice to the Owner and take reasonable action to mitigate damage or prevent its spread. The Association may, but is not obligated to, repair the damage with the prior consent of the Owner. The Board shall further have the discretion to adopt reasonable rules and regulations regarding requirements for home-watch when Owners are absent from their Units.

11.9 Association's Access to Units; Homewatch. The Association has an irrevocable right of access to the Units for the purposes of protecting, maintaining, repairing and replacing the common elements or portions of a Unit to be maintained by the Association under this Declaration, and as necessary to prevent damage to one or more Units. The Association's right of access includes, without limitation, entry for purposes of pest control and preventive maintenance of safety equipment such as fire alarms and sprinkler systems, and the elimination of any nuisance to other Units, as well as the right, but not the duty, to enter under circumstances where the health or safety of residents may be endangered or damage to the common elements may occur. In addition, the Association has the right to access an abandoned unit, as defined by the Condominium Act. The exercise of the Association's rights of access to the Unit shall be accomplished with due respect for the rights of occupants to privacy and freedom from unreasonable annoyance, as well as with appropriate precautions to protect the personal property within the Unit. In the event of an emergency where the Association needs to enter a Unit in the absence of any resident, the Association will, if possible, provide notice to the Owner/resident before entering, but in all cases will notify the owner/resident in a timely manner after entry. In a non-emergency situation, the Association shall contact the unit owner/resident to request access to the unit. In the event that it becomes necessary to resort to litigation to gain entry, the Association will be entitled to recover all court costs, expenses and reasonable attorneys' fees; however, nothing in this sentence places a limitation on the Association's access to a Unit in an emergency situation as provided by the Condominium Act or this Declaration. The Association may retain a passkey to all Units. If it does, no Unit Owner shall alter any lock, nor install a new lock, which prevents access when the Unit is unoccupied, unless the Unit Owner provides the Association with a key. If the Association is not given a key, the Unit Owner shall pay all costs incurred by the Association in gaining entrance to the Unit, as well as all damage to his or her Unit caused by gaining entrance thereto, and all damage resulting from delay in gaining entrance to his or her Unit caused by the unavailability of a key and shall bear the cost of any new key made to thereafter to secure the Unit. The Unit Owner shall provide to the Association the name and telephone number of the home watch service or individual that: (i) has a key to such Unit Owner's Unit; (ii) shall be the Unit Owner's local emergency contact; and (ii) shall perform the home watch obligations set forth in Section 11.3.5(B) above. The Unit Owner shall notify the Association of a change in such home watch service or individual within five (5) days of making such change.

11.10 Abandoned Units. An Association, at the sole discretion of the Board, may enter an abandoned Unit for the following reasons:

- (A) Inspect the Unit and adjoining common elements;
- (B) Make repairs to the Unit or to the common elements serving the Unit, as needed;
- (C) Repair the Unit if mold or deterioration is present;

- (D) Turn on the utilities for the Unit; or
- (E) Maintain, preserve, or protect the Unit and adjoining common elements.

Except in the case of an emergency, an Association may not enter an abandoned Unit until two (2) days after the Association has provided the Owner with notice of the Association's intent to enter the Unit by mail or hand-delivery at the Owner's address as reflected in the records of the Association. The notice may be provided by electronic transmission to Unit Owners who previously consented to receive notice by electronic transmission. Any expense incurred by an Association pursuant to this paragraph is chargeable to the Unit Owner and enforceable as an assessment, and the Association has the right to lien the property for such unpaid assessment pursuant to Section 10.8 above. The Association may also petition a court of competent jurisdiction to appoint a receiver to lease out an abandoned Unit for the benefit of the Association to offset the rental income against the Association's costs and expenses of maintaining, preserving, and protecting the unit and the adjoining common elements, including the costs of the receivership and all unpaid assessments, interest, administrative late fees, costs, and reasonable attorney fees.

11.11 Pest Control. The Association may supply pest control services for the inside of each Unit, with the cost thereof being part of the common expenses. An Owner has the option to decline such service unless the Association determines that such service is necessary for the protection of the balance of the Condominium, in which event the Owner thereof must either permit the Association's pest control company to enter his or her Unit or must employ a licensed pest control company to enter his or her Unit on a regular basis to perform pest control services and furnish written evidence thereof to the Association. Because the cost of pest control service provided by the Association is part of the common expenses, the election of an Owner not to use such service shall not reduce the Owner's assessments.

11.12 Lanais. The Board of Directors may, but is not obligated to, adopt a basic approved plan for screening and/or glassing-in of lanais. A Unit Owner may screen or enclose the lanai serving his or her unit in strict conformity to any such approved plans with prior written consent of the Board of Directors. Once installed, a Unit Owner may replace screening or glass without the specific written approval of the Board of Directors, as long as the Unit Owner provides the Board written notice of the project, a copy of the contractor's proof of insurance (workmen's compensation and liability), and the license and permitting documents prior commencing such work.

11.13 Hurricane Shutters. Notwithstanding any provision set forth hereinabove to the contrary, the Board of Directors shall adopt and approve a model, style and color of hurricane shutter as a standard hurricane shutter for use in the Condominium. No hurricane shutter except of the standard model, color and style adopted by the Board of Directors shall be installed. Hurricane shutters may not be installed on the outside of the lanai. Further, the Board shall have the right to promulgate rules regarding the timing and deployment and retraction of hurricane shutters. If a Unit Owner fails to deploy or retract the hurricane shutters pursuant to the promulgated rule, the Association may, but is not obligated to, enter the unit and deploy/ retract the shutters without the necessity of securing prior consent of the unit owner, and the Unit Owner will be responsible for all costs.

12. USE RESTRICTIONS: The use of the Units shall be in accordance with the following provisions as long as the Condominium exists:

12.1 Units. Except as otherwise expressly provided, each Unit shall be occupied only by a single family, and its Guests, as a residence and for no other purpose. The total number of overnight occupants in a Unit when the Owner is not in residence is limited to two (2) persons per bedroom. No

business or commercial activity shall be conducted in or from any Unit, including, but not limited to storing or processing inventory, visitation of the home by clients, customers, suppliers, or other business invitees or door to door solicitation of residents. The use of a Unit as a public lodging establishment, or advertisement of the Unit on Airbnb, Homeaway, VBRO or similar sites, shall be deemed a business or commercial use. This restriction shall not be construed to prohibit any Owner from maintaining a personal or professional library, from keeping his or her personal, business, or professional records in his or her unit, or from handling his or her personal, business, or professional telephone calls, e-mail, web services, or written correspondence in and from his or her unit. Such uses are expressly declared customarily incident to residential use. No person who is subject to registration under Florida law as sexual offenders or sexual predators may occupy a Unit and are subject to eviction without consent of the owner.

12.2 Animals. The Owner of each Unit is permitted to keep no more than two (2) animals of normal domesticated household type (dog or cat) in the Unit, subject to and in accordance with this Section. Animals must be leashed or carried at all times when outside of the Owner's Unit on the common elements. Animals may not be left unattended in lanais, tied to a limited or common element, or unattended on limited common elements or common elements, where their noise may bother others. Animals are not allowed in the pool or on the pool deck. The ability to keep an animal is a privilege, not a right. Any animal which becomes an unreasonable source of annoyance or nuisance, in the sole discretion of the Board, may be required to be removed from the premises within fourteen (14) days of delivery of notice to the Owner. Animals cannot be kept, bred or maintained for any commercial purpose or become a nuisance to the neighborhood. Owners cannot keep reptiles, rodents, amphibians, poultry, livestock, Pitbull dogs or mixed Pitbull dogs, or any other aggressive breed, as animals in the Unit. The Board of Directors may adopt further rules and regulations on other animal types and breeds which are prohibited on Condominium Property. Owners are responsible to insure that no fecal (solid waste) matter is left behind by such animals. All animals must have required vaccination certificates and licenses in accordance with applicable governing authority and regulations. Any Unit Owner who keeps or maintains an animal on Condominium Property, in exchange for and in consideration of the privilege to keep the animal, agrees and shall hereby be deemed to indemnify and hold the Association harmless from any loss, claim, or liability of any kind or character of whatever nature arising from or related to the keeping or maintaining of a animal on Condominium Property. Tenants and Guests are prohibited from having animals in the Units or on the Condominium Property.

12.3 Nuisances. No Owner shall use his or her Unit, or permit it to be used, in any manner which is unreasonably disturbing, detrimental or a nuisance to the occupant of another Unit, or which would not be consistent with the maintenance of the highest standards for a first class residential condominium, nor permit the premises to be used in a disorderly or unlawful way. The use of each Unit shall be consistent with existing laws, the Waterside Master Documents and the condominium documents, and occupants shall at all times conduct themselves in a peaceful and orderly manner.

12.4 No Improper Uses. No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or Association 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 or Association Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property or Association Property, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or Bylaws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this Section 12.4. No activity specifically permitted by this Declaration shall be deemed a violation of this Section.



12.5 Signs. No person may post or display any signs anywhere on the Condominium Property, including, without limitation, "For Sale", "For Rent," "Open House", or other signs (i.e., property, boat, vehicle) on the Condominium Property.

12.6 Motor vehicles; parking. No motor vehicle shall be parked within the Condominium except on a paved surface intended for such use. Boats, trailers of any kind, campers, mobile homes, motor homes, buses, truck campers, recreational vehicles, and the like, and any vehicle without current registration or not in operable condition, may not be parked, stored or kept within the Condominium. For purposes of this paragraph "kept" shall mean present for any period of twelve (12) consecutive hours or overnight, whichever is shorter. No commercial vehicles of any kind (other than those temporarily present on service business, may be parked on the common elements for more than four (4) hours per day, unless such vehicle is necessary in the actual construction or repair of a structure or for grounds maintenance or maintenance of public utilities. The parking of 2-axle, non-commercial pickup trucks and vans will be permitted if the following requirements are met:

- (A) The vehicle bears no exterior signage.
- (B) The vehicle, if a van, must have windows on all side panels and seating capacity throughout.
- (C) No commercial or unusual tools, ladders, pipes, equipment, merchandise, racks, materials or supplies are regularly kept or stored in the vehicle; where visible to others.
- (D) Vehicles may not be used as a domicile or residence, either permanent or temporary, while in the Waterside Complex.

The Association may elect to issue vehicle decals and the Association reserves the right to require that a decal be displayed on the vehicle while it is parked on the Condominium Property. All vehicles kept on the Condominium Property shall be operational and in good condition. In the event of doubt or dispute as to whether a vehicle is prohibited, the good-faith determination of the Board shall be binding and conclusive.

No motor vehicle shall be parked on the Condominium Property except in such areas intended and designated for that purpose. The Board may adopt further rules and regulations restricting parking, including the ability to prohibit Owners from parking in overflow parking if reasonably necessary to allow sufficient guest parking.

Because the number of parking spaces in the Condominium is limited, the ability of the owners and occupants of any unit to park, keep or store more than two (2) motor vehicles on the Condominium Property at any time may be limited or regulated by the Association.

12.7 Abandoned/ Inoperable Vehicles. Abandoned or inoperable vehicles shall not be stored or parked on any portion of the Condominium Property. "Abandoned or inoperable vehicle" shall be defined as any vehicle that has not been driven under its own propulsion for a period of three (3) weeks or longer; or is not licensed and registered; provided, however, this shall not include operable vehicles left on the Condominium Property by Unit Owners in a Unit's designated parking space and for which the Owner has notified the Association or its designee and provided access to a key or the contact information for an individual who can provide for removal of the vehicle within twenty-four (24) hours. A written notice describing the "abandoned or inoperable vehicle" and requesting removal thereof may be

personally served upon the owner or posted on the unused vehicle; if such vehicle has not been removed within seventy-two (72) hours thereafter, the Association shall have the right to have the vehicle towed without liability to the Association, and the expense thereof shall be charged against the Unit. No mechanical repairs or maintenance to any vehicles may be performed on the Condominium Property.

12.8 Use of Common Elements. The common elements and limited common elements shall not be obstructed, littered, defaced or misused in any manner. Lanais, terraces and walkways shall be used only for the purposes intended, and they shall not be used for hanging, drying or cleaning clothing, rugs or other household items where visible from the ground, or for outdoor cooking.

12.9 Satellite Dishes. Satellite dishes are prohibited on the common elements of the Condominium, including the common element air space. Satellite dishes may be positioned on lanais, but the Unit Owner must first obtain written approval from the Board or its designee prior to installation. Such application for approval shall include the proposed location, installation and wiring details and are subject to size limitations, installation requirements and locational restrictions set by the Board to the minimum required by law.

12.10 Barbecue Grills. No hibachi, gas-fired, propane, charcoal grill, electric grill or other grill type is allowed on the Condominium Property.

12.11 Decorations. The Board of Directors may adopt rules allowing Unit Owners to decorate within a limited area of their Unit entry door. Unit Owners may not decorate or place any items near fire doors or the space between the fire doors, nor may they decorate or place personal items anywhere else not designated by the Board. The Association may remove these items at any time and may adopt further rules regulating such items.

12.12 Drones. No Drones or Aerial Devices, such as motorized planes, as defined by Florida Statutes Section 934.50, will be allowed to fly or otherwise be used within the boundaries of the community, except those contracted for by the Association in the normal course of its business, without prior written approval of the Board of Directors. The Board may adopt further rules and regulations on drones, including when such use may be approved and a location for receiving deliveries, if any.

12.13 Mold. Given the climate and humid conditions in Florida, molds, mildew and toxin fungi may exist and/or develop within the Unit and/or Condominium Property. Each Unit Owner is hereby advised that certain molds, mildew, toxins, and fungi may, or if allowed to remain for a sufficient period, may become toxic and potentially pose a health risk. By acquiring title to a Unit, Unit Owner shall be deemed to assume the risks associated with molds, mildew, toxins, and/or fungi and to have released the Association from any and all liability resulting from same, including without limitation, any liability for consequential damages (which may result from, without limitation, the inability to possess the Unit, inconvenience, moving costs, hotel costs, storage costs, loss of time, lost wages, lost opportunities and/or personal injury). Without limiting the generality of foregoing leaks, leaving exterior doors or windows open, wet flooring and moisture will contribute to growth of mold, mildew, fungus or spores. Vinyl wall covering or other non-permeable wall covering is prohibited from being installed on any exterior wall of the Unit or upon any wall within the Unit. Unit Owner agrees the Association is not responsible, and hereby disclaims any responsibility for any illness or allergic reactions which may be experienced by the Unit Owner, its family members and/or any Guests, tenants and invitees as a result of mold, mildew, fungus or spores. It is each Unit Owner's responsibility to keep the Unit clean, dry, well-ventilated and free of contamination. All Unit Owners, whether or not occupying the Unit, shall periodically run the air conditioning system to maintain the Unit temperature, whether or not occupied, at not more than 78°F, to

minimize humidity in the Unit. Failure to comply with this requirements will be considered gross negligence.

12.14 Surveillance and Security Cameras. An Owner's surveillance and security cameras shall be limited to a Unit Owner's Unit and Limited Common Elements and shall not infringe upon the privacy of others. Any placement of camera equipment on Limited Common Elements related to surveillance must be approved by the Board of Directors to ensure the privacy of other owners, tenants, Guests, and invitees has not been infringed upon. The determination of what constitutes infringement on privacy is in the sole discretion of the Board. There shall be no videotaping of other owners, tenants, Guests or invitees on the Common Elements without the express permission of the person being videotaped, with the exception of Association surveillance cameras, if any, and the videotaping of board and member meetings as allowed by Florida law.

12.15 Rules and Regulations. The Board of Directors may, from time to time, adopt, amend or repeal administrative rules and regulations governing the use, maintenance, management and control of the common elements, limited common elements, and the operation of the Association. Any rule or regulation created and imposed by the Board must be reasonable, demonstrably related to the promotion of health, happiness and peace of mind of the Unit Owners, and uniformly applied and enforced. Rules and regulations may not be inconsistent with rights expressly provided in the Condominium Documents, or reasonably inferable therefrom. Copies of the rules and regulations shall be available to Owners and occupants of the Units on request, and Unit Owners are entitled to reasonable notice of any new rules or amendments to existing rules before they are enforceable.

13. LEASING OF UNITS: In order to foster a stable residential community and prevent a motel-like atmosphere, the leasing of units is restricted as provided in this Section 13. The ability of a unit owner to lease his or her unit to others is a privilege, not a right. The privilege may be revoked by the Board of Directors if it is abused by the owner. All leases of units must be in writing, and the Association may ignore any alleged oral leases. A unit owner may lease only his or her entire unit, and then only in accordance with this Section 13, after receiving the approval of the Association. The lessee must be a natural person.

#### 13.1 Procedures.

13.1.1 Notice by the Unit Owner. An Owner intending to lease his or her Unit shall give to the Board of Directors or its designee written notice of such intention at least twenty (20) days prior to the proposed transaction, together with the name and address of the proposed lessee, an executed copy of the proposed lease, together with such other information as the Board may reasonably require. The Association may charge an application fee not to exceed one hundred dollars (\$100.00) or a greater amount allowed by law. The Board may require an interview with the proposed lessee and his or her spouse, if any, as a condition of approval. All leases shall be on a uniform form of lease or lease addendum if so promulgated by the Association. Uniform leases, addenda and all other leases will provide or be deemed to provide that the tenants have read and agreed to be bound by the Declaration of Condominium, Articles of Incorporation, By-Laws and Rules and Regulations as the same may be amended from time to time, (the "Governing Documents"). The uniform lease or addendum and other leases shall further provide or be deemed to provide that any violation of the Governing Documents shall constitute a material breach of the lease and subject the tenant to eviction as well as any other remedy afforded by the Governing Documents or Florida Law.

13.1.2 Board action/ Approval. After the required notice and all information or interviews requested have been provided, the Board has twenty (20) days in which to approve or

disapprove the proposed lease. If the Board neither approves nor disapproves within that time, its failure to act is the equivalent of approval, and on demand the Board shall issue a written notice of approval to the lessee.

13.1.3 Disapproval. A proposed lease shall be disapproved only if a majority of the whole Board so votes, and in such case the Unit Owner shall be notified in writing and the lease shall not be made. Appropriate grounds for disapproval shall include, but not be limited to, the following:

- (1) The Unit Owner is delinquent in the payment of assessments at the time the application is considered;
- (2) The Unit Owner has a history of leasing his or her Unit to troublesome lessees and/or refusing to control or accept responsibility for the occupancy of his or her Unit;
- (3) The real estate company or rental agent handling the leasing transaction on behalf of the Unit Owner has a history of screening lessee applicants inadequately or recommending undesirable lessees;
- (4) The application on its face indicates that the person seeking approval intends to conduct himself in a manner inconsistent with the covenants and restrictions applicable to the Condominium;
- (5) The prospective lessee or any proposed occupants has been convicted of, pled guilty or nolo contendere to a felony involving violence to persons or property, a felony or misdemeanor crime involving sale or possession of a controlled substance, except that any misdemeanor conviction or plea must have occurred within the last seven (7) years, a crime demonstrating dishonesty or moral turpitude, or is registered as a sexual predator and/or offender;
- (6) The prospective lessee or any proposed occupants has a history of conduct which evidences disregard for the rights and property of others;
- (7) The prospective lessee or any proposed occupants evidences a strong probability of financial irresponsibility;
- (8) The lessee or any proposed occupants, during previous occupancy, has evidenced an attitude of disregard for the Association rules; or
- (9) The prospective lessee or any proposed occupant gives false or incomplete information to the Board as part of the application procedure, or the required transfer fees and/or security deposit is not paid.
- (10) The Owner fails to give proper notice of his or her intention to lease the Unit to the Board of Directors.

13.1.4 Failure to Give Notice or Obtain Approval. If proper notice is not given, the Board at its election may approve or disapprove the lease. Any lease entered into without approval

may, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the lessee with five (5) days' notice, without securing consent to such eviction from the Unit Owner.

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

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

13.2 Term of Lease and Frequency of Leasing. No Unit may be leased for less than a minimum of thirty (30) days and for no more than twelve (12) months. At no time shall the number of Units being leased in the Condominium be greater than thirty-three percent (33%) of the total units. No option for the lessee to extend or renew the lease for any additional period shall be permitted unless approved by the Board. No subleasing or assignment of lease rights by the lessee is allowed.

13.3 Occupancy During Lease Term. No one but the lessee, his or her family members within the first degree of relationship by blood, adoption or marriage, and their spouse and temporary house Guests may occupy the unit. The total number of overnight occupants of a leased unit is limited to two (2) persons per bedroom. When a Unit has been leased, the Unit may be occupied by the lessee and his or her family, as the term "family" is defined in this Declaration. All leases are limited to a maximum Unit occupancy of two persons per bedroom. A pullout sofa bed in the living room or any other room does not constitute an additional bedroom. A lessee will not be permitted to have a Guest stay with them longer than fourteen (14) days. There shall not be more than (3) guest occupancies per year, but in no event may the total number of days for all guest occupancies exceed sixty (60) in any one year. Should a Guest stay longer than fourteen (14) consecutive days, or otherwise violate this Section 13.3, the Board has the right to evict the Guest and lessee in accordance with the requirements of Chapter 83, Florida Statutes, without securing consent to such eviction from the Unit Owner.

13.4 Occupancy in Absence of Lessee. If a lessee absents himself from the Unit for any period of time during the lease term, his or her family within the first degree of relationship (parents, children) already in residence may continue to occupy the Unit and may have Guests subject to all the restrictions in Sections 12 and 13.3 above. If the lessee and all of the family members mentioned in the foregoing sentence are absent, no other person may occupy the Unit.

13.5 Use of Common Elements and Association Property. To prevent overtaxing the facilities, a Unit Owner whose Unit is leased may not use the recreation or parking facilities generally available for use by unit owners during the lease term.

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

13.7 Fees and deposits related to the lease of units. Whenever herein the Board's approval is required to allow the lease of a unit, the Association may charge the unit owner or the tenant a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law. No fee may be charged for approval of a renewal or extension of a lease with the same lessee. The Association may also require the tenant to post a security deposit before occupying the unit to protect the Association against damages to the common elements by the tenant.

13.8 Exception. Section 13.1 is not applicable to a lease by a first mortgagee who acquires title through the mortgage, whether by foreclosure or deed in lieu of foreclosure.

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

14.1 Forms of Ownership.

14.1.1 One Owner. A Unit may be owned by one natural person who has qualified and been approved as elsewhere provided herein.

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

No time share estates may be created. "Unit Sharing" by multiple families and "Fractional Ownership" are prohibited.

14.1.3 Ownership by Corporations, Partnerships or Trusts. A Unit may be owned in trust, or by a corporation, partnership or other entity which is not a natural person, if approved in the manner provided elsewhere herein. The intent of this provision is to allow flexibility in estate, financial or tax planning, and not to create circumstances in which the Unit may be used as short-term, transient accommodations for several individuals or families as a timeshare, a shared Unit, fractional ownership, or used as guest accommodations for employees, customers, or Guests of Units owned by business entities, religious, or charitable organizations, and the like. The approval of a trustee, or corporation, partnership or other entity as a Unit Owner shall be conditioned upon designation by the Owner of one natural person to be the "Primary Occupant". The use of the Unit by other persons shall be as if the primary occupant were the only actual Owner. The primary occupant shall be the person entitled to vote on behalf of the Unit, and exercise rights of membership. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Section 14. No more than one such change will be approved in any twelve (12) month period, except in the event of the primary occupant's death.

14.1.4 Life Estate. A Unit may be subject to a life estate, either by operation of law or by a voluntary conveyance approved under Section 14.2 below. In that event, the life tenant shall be the only Association member from such Unit, and occupancy of the Unit shall be as if the life tenant was the only Owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy rights unless separately approved by the Association. The life tenant shall be liable for all

assessments and charges against the Unit. Any vote, consent or approval required of association members may be given by the life tenant alone, and the vote, consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as Co-Owners for purposes of determining voting and occupancy rights.

14.2 Transfers.

14.2.1 Sale or Gift. No Unit Owner may dispose of a Unit or any interest therein by sale or gift (including agreement for deed) without prior written approval of the Board of Directors.

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

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

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

14.3 Procedures.

14.3.1 Notice to Association.

14.3.1.1 Sale or Gift. An Owner intending to make a sale or gift of his or her Unit or any interest therein shall give to the Board of Directors or its designee written notice of such intention at least thirty (30) days prior to the intended closing date, together with the name and address of the proposed purchaser or donee, an executed copy of the sales contract, if any, a check in the maximum amount allowed by law and such other information as the Board may reasonably require. The Board may require a personal interview with the proposed purchaser or donee and his or her spouse, if any, as a condition for approval.

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

14.3.1.3 Demand. With the notice required in Subsection 14.3.1.1 above, the Owner or transferee seeking approval may make a written demand that if the transfer is disapproved without good cause, the Association shall furnish an approved alternate purchaser upon the same price and terms as in the disapproved sales contract, or if no contract is involved, for the fair market value of the Unit determined as provided below.

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

- (A) Within thirty (30) days of receipt of the required notice and all information or interviews requested, or not later than sixty (60) days after the notice required by Section 14.3.1.1 above is received, whichever occurs first, the Board shall approve or disapprove the transfer. If a transfer is approved, the approval shall be stated in a Certificate of Approval in recordable form and delivered to the transferee. If the Board neither approves nor disapproves within the time limits as set forth above, such failure to act shall be deemed the equivalent of approval and on demand the Board shall issue a Certificate of Approval to the transferee.

14.3.2 Disapproval.

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

- (a) The person seeking approval has been convicted of a felony involving violence to persons or property, or a felony demonstrating dishonesty or moral turpitude, or is registered as a sexual predator;
- (b) The person seeking approval has a record of financial irresponsibility, including without limitation prior bankruptcies, foreclosures or bad debts;
- (c) The application for approval on its face indicates that the person seeking approval intends to conduct himself in a manner inconsistent with the covenants and restrictions applicable to the Condominium;
- (d) The person seeking approval has a history of disruptive behavior or disregard for the rights or property of others;
- (e) The person seeking approval has evidenced an attitude of disregard for association rules or by his or her conduct in this Condominium as a tenant, Unit Owner or occupant of a Unit;
- (f) The transfer to the person seeking approval would result in that person owning more than three (3) Units in the Condominium; or
- (g) The person seeking approval has failed to provide the information, fees or interviews required to process the application in a timely manner, or provided false information during the application process.



14.4 Exception. The provisions of Sections 14.2 and 14.3 are not applicable to the acquisition of title by a mortgagee who acquires title through the mortgage, whether by foreclosure or deed in lieu of foreclosure.

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

14.6 Fees for Processing Applications for Approval to Purchase or Lease. Whenever herein the Board's approval is required to allow the sale, lease, or other transfer of an interest in a Unit, the Association may charge the Owner a preset fee for processing the approval, such fee not to exceed the maximum amount allowed by law. No fee may be charged for approval of a renewal or extension of a lease with the same lessee.

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

15.1 By the Unit Owner. Each Unit Owner is required to purchase and maintain adequate insurance coverage for his or her own Unit, and the personal property therein, including all alterations, additions and improvements made to the Unit or the common elements by the Owner or his or her predecessors in title, all 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 a Unit and serve only one Unit, and any improvements installed by a current or former Owner if the improvement benefits only the Owner for which it was installed regardless of whether the improvement is located within that Unit. The Unit Owner shall also insure those items which the Unit Owner is obligated to insure, or which the Association may exclude from its insurance responsibility, by virtue of the Condominium Act, as the same may be amended from time to time. Each Unit Owner must carry homeowner's insurance, with endorsements for (1) leakage, seepage, and wind-driven rain, (2) additions and alterations, and (3) loss assessment coverage. The Unit Owner shall bear the financial responsibility for any damage to his or her property or liability to others that would otherwise be covered by such insurance, should the Owner fail to maintain such insurance. An Owner's insurance policy may not contain rights of subrogation against the Association. The Association shall be a named additional insured and loss payee on all hazard and liability policies obtained by the Unit Owner pertaining to the Unit, if required by the Act. A Unit Owner's policy must conform to the requirements of Section 627.714, Florida Statutes, as may be amended from time to time.

15.2 Association Insurance: Duty and Authority to Obtain. The Association must use its best efforts to obtain and keep in force the insurance coverage which it is required to carry pursuant to law, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The name of the insured shall be the Association and the Owners without naming them, and their mortgagees, as their interests shall appear. To the extent permitted by law, the Association may self-insure. The amount of insurance must be based upon 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. When determining the adequate amount of property insurance coverage, the Board of Directors may consider deductibles as determined pursuant to Section 718.111 of the Condominium Act. The deductibles must be consistent with industry standards and prevailing practice for communities of similar size and age, and having similar construction and facilities in the locale where the Condominium is situated. The deductibles may be based upon available funds, including reserve accounts, or predetermined assessment authority at the time the insurance is

obtained. The Board of Directors shall establish the amount of deductibles based upon the level of available funds and predetermined assessment authority at a meeting of the Board of Directors in the manner set forth in Section 718.112(2)(e) of the Condominium Act.

15.3 Required Coverage. The Association shall maintain adequate insurance covering all of the buildings and the common elements as well as all association property, in amounts determined annually by the Board of Directors to be adequate, such insurance to afford the following protection:

15.3.1 Property. Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by what is commonly known as an "All Risk" property contract.

15.3.2 General Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors, with cross liability endorsement to cover liabilities of the Owners as a group to an Owner.

15.3.3 Automobile. Automobile liability for bodily injury and property damage for all owned and non-owned motor vehicles, in such limits of protection and with such coverage as may be determined by the Board of Directors.

15.3.4 Workers' Compensation. If applicable, the Association shall maintain Workers' Compensation insurance on at least a minimum premium basis.

15.3.5 Statutory Fidelity Bond/Insurance. The association shall maintain insurance or fidelity bonding of all persons who control or disburse funds of the association, pursuant to Section 718.111(11), Florida Statutes, as amended from time to time.

15.3.6 Flood. If within a flood zone, in amounts deemed adequate by the Board of Directors, as available through the National Flood Insurance Program.

15.3.7 Directors and Officers. Liability Insurance, with an endorsement for Employment Practices and Liability.

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

- (A) Flood insurance.
- (B) Boiler and Machinery coverage (includes breakdown on air conditioning Units).
- (C) Broad Form Comprehensive General Liability Endorsement.
- (D) Medical Payments.
- (E) Leakage, seepage and wind-driven rain.
- (F) Loss by operation of local ordinances.

(G) Crime insurance.

(H) Umbrella insurance.

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

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

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

15.7.1 Common Elements. Proceeds on account of damage to common elements shall be held in as many undivided shares as there are Units, the shares of each Unit Owner being the same as his or her share in the common elements.

15.7.2 Units. Proceeds on account of damage within the Units shall be held in prorated shares, based on the amount of damage within each damaged Unit as a percentage of the total damage within all Units, less the deductible.

15.7.3 Mortgagee. If a mortgagee endorsement has been issued as to a Unit, the shares of the mortgagee and the Unit Owner shall be as their interests appear. In no event shall any mortgagee have the right to demand application of insurance proceeds to any mortgage or mortgages which it may hold against Unit or Units, except when the funds are not used for repairs or to the extent that insurance proceeds exceed the actual cost of repair or restoration of the damaged building or buildings. Except as otherwise expressly provided, no mortgagee shall have any right to participate in determining whether improvements will be restored after casualty.

15.7.4 Deductibles. The policies may provide for reasonable deductibles. In the case of property insurance, the deductible shall be paid by the party who would be liable for the loss or required to pay for the repairs in the absence of insurance. If multiple parties would be responsible, the deductible shall be allocated among them in relation to the amount each party's responsibility bears to the total.

15.8 Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the Unit Owners in the following manner:

15.8.1 Cost of Protecting and Preserving the Property. If a person other than the person responsible for repair and reconstruction has advanced funds to preserve and protect the property to prevent further damage or deterioration, the funds so advanced shall first be repaid, with interest if required.

15.8.2 Cost of Reconstruction or Repair. If the damage for which the proceeds are paid is to be reconstructed or repaired by the Association, the remaining proceeds shall be paid to defray the costs thereof. Any proceeds remaining after defraying costs shall be distributed to the beneficial Owners, remittances to Unit Owners and their mortgagees being paid jointly to them.

15.8.3 Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided herein that the damages for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial Owners, remittances to Unit Owners and their mortgagees being payable jointly to them.

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

16. RECONSTRUCTION OR REPAIR AFTER CASUALTY. If any part of the condominium property is damaged by casualty, whether and how it shall be reconstructed or repaired shall be determined as follows:

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

16.2 Damage to Common Elements-Less than "Very Substantial". Where loss or damage occurs to the common elements, but the loss is less than "very substantial", as hereinafter defined, it shall be mandatory for the Association to repair, restore and rebuild the damage caused by the loss, and the following procedures shall apply:

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

16.3 "Very Substantial" Damage. As used in this Declaration, the term "very substantial" damage shall mean loss or damage caused by a common occurrence whereby at least three-fourths (3/4ths) of the total Units cannot reasonably be rendered habitable within sixty (60) days. Should such "very substantial" damage occur then:

- (A) The Board of Directors and its officers, or any of them, are authorized, regardless of any other provision in this Declaration, to take such action as may reasonably appear to be necessary under emergency conditions, as further provided in the Bylaws. This authority includes actions to protect life and property, to evacuate

or shore-up structures and salvage property, to engage security to protect against looting or other criminal acts, and to alter the condominium property or association property from further damage or deterioration. This authority includes the authority to expend any and all available association funds, including reserves.

- (B) The Board of Directors shall endeavor to obtain comprehensive, detailed estimates of the cost of repair and restoration.
- (C) A membership meeting shall be called by the Board of Directors to be held not later than sixty (60) days after the Board has obtained the estimates, to determine the opinion of the membership with reference to rebuilding or termination of the Condominium, subject to the following:
  - (1) If the insurance proceeds, reserves and other Association funds available for the restoration and repairs that are the Association's responsibility are sufficient to cover the estimated cost thereof so that it is reasonably anticipated that the repairs and reconstruction can be accomplished with a special assessment not exceeding fifteen percent (15%) of the total annual budget for the year in which the casualty occurred, then the Condominium shall be restored or repaired unless two-thirds (2/3) of the total voting interests vote for termination, in which case the Condominium shall be terminated, in accordance with Section 718.117 of the Condominium Act.
  - (2) If upon the advice of legal counsel, it appears unlikely that the then applicable zoning or other regulatory laws will allow reconstruction of the same number and general types of Units; or if the insurance proceeds, reserves and other Association funds available for restoration and repair are not sufficient to cover the estimated cost thereof so that it is reasonably anticipated that the repairs and reconstruction can only be accomplished by levying special assessments exceeding fifteen percent (15%) of the total annual budget for the year in which the casualty occurred, then unless two-thirds (2/3rds) of the total voting interests vote in favor of such special assessment and against termination of the Condominium, it shall be terminated and the property removed from the provisions of the Condominium Act. If the requisite number of Unit Owners approve reconstruction, the Board of Directors shall levy such assessments as are necessary and shall proceed to negotiate and contract for necessary repairs and restoration. The proceeds from the special assessments shall be added to the funds available for repair and restoration of the property.
- (D) If any dispute shall arise as to whether "very substantial" damage has occurred, or as to the amount of special assessments required, a determination approved by at least two-thirds (2/3rds) of the Board of Directors shall be conclusive, and shall be binding upon all Unit Owners.
- (E) If, because of unforeseen or unusual conditions, an additional special assessment becomes necessary to complete the reconstruction process, unit owner approval is not required.

16.4 Application of Insurance Proceeds. It shall always be presumed that monies disbursed for repair and restoration come first from insurance proceeds; if there is a balance left in the funds held by the Association after the payment of all costs of repair and restoration, such balance shall be distributed to the Unit Owners, except as otherwise provided in Section 15.7.3 above.

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

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

## 17. CONDEMNATION:

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

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

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

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

17.5 Units Reduced but Habitable. If the condemnation reduces the size of a Unit and the remaining portion of the Unit can be made habitable, the awards for the taking of a portion of that Unit

shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

17.5.1 Restoration of Unit. The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be paid by the Owner of the Unit.

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

17.5.3 Adjustment of Shares in Common Elements. If the floor area of a Unit is reduced by the taking, the number representing the share in the common elements appurtenant to the Unit shall be reduced in the proportion by which the floor area of the Unit is reduced by the taking, and then the shares of all Unit Owners in the common elements shall be restated as percentages of the total of the numbers representing their original shares as reduced by the taking.

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

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

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

17.6.3 Adjustment of Shares in Common Elements. The shares in the common elements appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the ownership of the common elements among the reduced number of Unit Owners. This shall be done by restating the shares of continuing Unit Owners in the common elements as percentages of the total of the numbers representing the shares of these as they existed prior to the adjustment.

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

17.6.5 Arbitration. If the fair market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and the Association within thirty (30) days after notice by either party, the value shall be determined by appraisal in accordance with the following. The Unit Owner, the first mortgagee, if any, and the Association shall each appoint one qualified appraiser, who shall appraise the Unit and determine the fair market value by computing the arithmetic average of their appraisals of the Unit. A judgment of specific performance upon the fair market value calculated in this way may be entered in any court of competent jurisdiction. Each party shall bear the cost of his or her own appraiser.

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

17.8 Amendment of Declaration. Any changes in Units and in the common elements, in the ownership of the common elements, and in the sharing of common expenses that are necessitated by condemnation shall be accomplished by amending this Declaration. Such amendment need be approved only by a majority of all Directors. The consent of Unit Owners or lien holders is not required for any such amendment.

18. TERMINATION. The Condominium may be terminated in the manner provided in the Condominium Act. The provisions of Section 718.117 of the Condominium Act, as amended from time to time, are incorporated herein.

18.1 Agreement. The Condominium may be caused to be terminated at any time by written agreement of the owners of at least four-fifths (4/5ths) of the units, and the Primary Institutional Mortgagee.

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

18.3 Certificate of Termination. The termination of the Condominium as provided for by law, or by either of the foregoing methods shall be evidenced by a Certificate of Termination, executed by the President or Vice President of the Association with the formalities of a deed, certifying the facts effecting the termination. Except as otherwise provided below, the certificate is not effective unless it includes the name and address of a Florida financial institution with trust powers, or a licensed Florida attorney, that is designated by the Association to act as Termination Trustee, and is signed by that Trustee indicating willingness to serve in that capacity. A Trustee need not be named in connection with a termination caused by a merger of condominiums under Section 21.7 below. Termination of the Condominium occurs when a Certificate of Termination meeting the requirements of this Section 18.3 is recorded in the Public Records of Lee County, Florida. The recording of that Certificate of Termination automatically divests the Association and all unit owners of legal title to all condominium and association property, and vests legal title in the Termination Trustee named in the Certificate of Termination, without need for further instruments of conveyance. Beneficial title to the former condominium and association property is owned by the former unit owners as tenants in common, in the same undivided shares as the owner(s) of each unit previously owned in the common elements. Upon termination, each lien encumbering a condominium parcel is automatically transferred to the equitable share in the condominium property attributable to the unit encumbered by the lien, with the same priority.

18.4 Wind-up of Association Affairs. Termination of this Condominium does not, by itself, dissolve the Association. The former unit owners, and their successors, heirs, devisees and assigns, shall continue as members of the Association, and the Directors and officers of the Association shall continue to serve in that capacity under the Articles of Incorporation and Bylaws, for the purpose of winding up the affairs of the Association in accordance with this Section 18, and as required by law.



18.5 Trustee's Powers and Duties. The Termination Trustee shall hold legal title to the former condominium and association property for the benefit of the former unit owners and their successors, assigns, heirs, devisees, mortgagees and other lien holders, as their interests shall appear. If the former unit owners approve a sale of the property as provided in this Section, the Termination Trustee is empowered and authorized to convey title to the property, and to distribute the proceeds in accordance with the provisions of this Section 18. The Termination Trustee shall be entitled to a reasonable fee for acting in this capacity, and such fee and all costs and expenses incurred by the Termination Trustee in the performance of its duties shall be paid separately by the Association or shall be taken from the proceeds of the sale of the former condominium and association property before any distributions to unit owners or lienholders are made, and until paid shall constitute a lien on the property superior to any other lien. The Trustee is entitled to be held harmless and indemnified to the fullest extent allowed by law by the Association against any and all liabilities and costs incurred by the Termination Trustee in the performance of its duties, unless such liabilities are the result of negligence or malfeasance. The Termination Trustee may rely upon the written instructions and information provided by persons the Trustee reasonably believes to be authorized officers, Directors or agents of the Association, and shall not be required to inquire beyond such information and instructions.

18.6 Partition; Sale. Following termination, the former condominium property and association property may be partitioned and sold upon the application of any unit owner. If following a termination, at least seventy-five percent (75%) of the voting interests agree to accept one or more offers for the sale of some or all of the property, the Board of Directors shall notify the Termination Trustee, and the Trustee shall complete the transaction. In that event, any action for partition of the property shall be abated pending the sale, and upon the consummation of the sale shall be discontinued by all parties thereto. If the former unit owners have not authorized a sale of the former condominium and association property within one (1) year after the recording of the Certificate of Termination, the Trustee may proceed to sell the property without agreement by the former unit owners. After providing for payment of all costs and expenses of termination and sale, the Trustee may distribute the proceeds of the sale of any of the property or assets of the Association to the beneficial owners thereof, as their interests shall appear. The costs and expenses are shared in the same shares as the distribution of the net proceeds.

18.7 New Condominium. The termination of the Condominium does not bar creation of another Condominium that includes all or any portion of the same property.

18.8 Provisions Survive Termination. The provisions of this Section 18 are covenants running with the land, and they shall survive the termination of the Condominium until all matters covered by those provisions have been completed. The Board of Directors shall continue to function in accordance with the Bylaws and Articles of Incorporation, and shall have the power to levy assessments against the members to pay the costs and expenses of maintaining the property until it is sold. The costs of termination, the fees and expenses of the Termination Trustee, as well as all post-termination costs of maintaining the former condominium property, payment of which shall be secured by a lien on the beneficial interest owned by each former unit owner, which to the maximum extent permitted by law, shall be superior to, and take priority over, all other liens.

## 19. OBLIGATION OF OWNERS:

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

- (A) The Association;
- (B) A Unit Owner;
- (C) Anyone who occupies a Unit;
- (D) Any member of the Board of Directors who willfully and knowingly fails to comply with these provisions; or

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

19.3 Attorney's Fees. In any legal proceeding arising out of an alleged failure of a Guest, tenant, Unit Owner or the Association to comply with the requirements of the Condominium Act or the condominium documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such attorney's fees as may be awarded by the court.

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

19.5 Notice of Lien or Suit.

19.5.1 Notice of Lien. A Unit Owner shall give to the Association written notice of every lien upon his or her Unit other than for permitted mortgages, taxes and special assessments, within five (5) days after the Unit Owner receives actual notice of the attachment thereof.

19.5.2 Notice of Suit. A Unit Owner shall give notice, in writing, to the Association of every suit or other proceeding which may affect the title to his or her Unit, such notice to be given five (5) days after the Unit Owner receives actual knowledge thereof.

19.5.3 Failure to Comply. Failure of an Owner to comply with this Section 19.5 will not affect the validity of any judicial suit, however, the failure may render the Owner liable to any party injured by such failure.

20. RIGHTS OF MORTGAGEES:

20.1 Approvals. Written consent of all mortgagees of Units shall be required for any amendment to the Declaration which would decrease the percentage interests of the Unit in the ownership of the common elements, except as provided in Sections 17.5.3, 17.6.3 and 17.8.

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

20.3 First Mortgage Foreclosure. If the mortgagee of a first mortgage of record acquires title to a condominium parcel as a result of foreclosure of the mortgage, or as the result of a deed given in lieu of foreclosure, such acquirer of title shall be liable for the share of common expenses or assessments attributable to the condominium parcel, or chargeable to the former Owner of the parcel, which came due prior to the mortgagee's acquisition of title to the extent provided for under the Condominium Act as amended from time to time. Any unpaid share of common expenses which such acquirer is exempt from liability becomes a common expense collectible from all Unit Owners, including such acquirer and his or her successors and assigns. No Owner or acquirer of title to a condominium parcel by foreclosure or by a deed in lieu of foreclosure may be excused from the payment of any assessments coming due during the period of such ownership.

20.4 Redemption. If proceedings are instituted to foreclose any mortgage or lien on any Unit, the Association, on behalf of one or more Unit Owners and with the permission of the mortgagee, may redeem the mortgage or lien for the amount due thereon and be thereby subrogated to all of the mortgagee's or lienor's rights of action, or the Association may purchase the Unit at the foreclosure sale. Any mortgagee shall have an unrestricted, absolute right to accept title to the Unit in settlement and satisfaction of the mortgage or to foreclose its mortgage in accordance with its terms, and to bid upon the Unit at the foreclosure sale. If the Association or any of its members redeem the mortgage or cure the default, it or they shall have a lien against the Unit for all sums expended in connection therewith, and shall have the same rights to collect such sums as in the case of a past due assessment.

20.5 Right to Inspect Books. The Association shall make available to mortgagees upon request current copies of the condominium documents and the books, records and financial statements of the Association. "Available" shall mean ready for inspection, upon written request, during normal business hours, or under other reasonable circumstances. Photocopies shall be provided at the expense of the person requesting them.

20.6 Financial Statement. Any mortgagee is entitled, upon written request, to a copy of the financial statement of the Association for the immediately preceding fiscal year.

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

- (A) Any sixty (60) day or longer delinquency in the payment of assessments or charges owed by the Owner of any Unit on which it holds a mortgage.
- (B) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.
- (C) Any proposed action that requires the consent of a specified percentage of mortgage holders.

Failure to give any notice under this Section 20.7 shall not become the basis for liability on the part of any person.

21. AMENDMENT OF DECLARATION. Except for alterations in the shares of Owners in the common elements, amendments to this Declaration may be proposed and adopted in the following manner:

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

21.2 Procedure. Upon any amendment or amendments to this Declaration being proposed as provided above, the proposed amendment or amendments shall be submitted to a vote of the members not later than the next annual meeting, unless insufficient time to give proper notice remains before that meeting.

21.3 Vote Required. An amendment so proposed shall be adopted if it is approved by at least a majority of the voting interests of the Condominium present in person or by proxy and voting at any annual or special meeting called for the purpose, but in no event shall the approval be by less than twenty-three (23) Voting Interests (the vote attributable to twenty-three (23) Units pursuant to Section 4.24 of this Declaration).

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

21.5 Proviso. An amendment to this Declaration may change the configuration or size of any unit in a material fashion, or materially alter or modify the appurtenances to the unit as defined in Section 6.2 above, or change the proportion or percentage by a unit shares the common expenses and owns the common surplus, only if the record owner of the unit, his or her Institutional Mortgagee, if any, and the owners of at least a majority of the units in the Condominium, consent to the amendment. This proviso does not apply to changes in ownership necessitated by condemnation or a taking by eminent domain under Section 17 above, nor to mergers of condominiums.

21.6 Correction of Errors. If there is an omission or error in this Declaration of Condominium or in other documents required by Florida law to establish the Condominium, the Association may correct the error or omission by following the procedures set forth in the Condominium Act.

21.7 Merger of Association or Condominium. The Waterside Complex contains several condominiums, each with its own association, and with the unit owners sharing certain common facilities operated by the Master Association.

21.7.1 Property Merger. As set forth in the original Declaration, incorporated herein, regardless of any provision in this Declaration to the contrary, this Declaration and any or all of its recorded exhibits may be amended in any way reasonable necessary to accomplish a merger of all Condominiums within the Waterside Complex by the written consent of at least eight percent (80%) of the voting interests of this Condominium and the approval of all record owners of liens on the condominium property. No other approval, consent or joinder by any other person shall be necessary, provided that the amendments or new documents accomplishing the merger must:

- (1) Protect and preserve the security and priority of all existing mortgages and liens, and the rights of existing mortgagees and lienholders; and
- (2) make no material changes in the then-existing restrictions on the use, occupancy, leasing, and transfer of ownership of units; and
- (3) to the greatest extent lawful, the share of common expenses and ownership of the common elements for each unit after the merger shall be determined by the same formula as was used to determine those shares in each condominium being merged.

21.7.2 Corporate Merger. The Board may also determine that it is or may be in the best interests of the unit owners in the Waterside Complex to consolidate or merge the association that operates this Condominium with one or more other condominium or community associations in the Waterside Complex to form a single association, pursuant to Sections 617.1101 through 617.1107, Florida Statutes, as amended. This Declaration and all recorded exhibits to this Declaration may be amended in any manner directly related to accomplishing such a corporate merger by the affirmative vote of a majority of the voting interests of this Condominium, notwithstanding any provisions in those governing documents or the law that would otherwise mandate a higher vote requirement for amendments.

## 22. MISCELLANEOUS

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

22.2 Applicable Statutes. The validity, application and construction of this Declaration and its exhibits shall be governed by the Laws of Florida, particularly the Condominium Act, as amended from time to time.

22.3 Conflicts. If there is a conflict between any provision of this Declaration and the Condominium Act, the Condominium Act shall control. If there is a conflict between this Declaration and the Association's Bylaws, the Declaration shall control.

22.4 Interpretation. The Board of Directors is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board is not unreasonable shall establish the validity of such interpretation. Nothing in this section shall be deemed to eliminate the rights of an owner to dispute resolution as set forth in the Governing Documents or the Condominium Act.

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

22.6 Headlines; Emphasis. The headings used in the condominium documents are for reference purposes only, and do not constitute substantive matter to be considered in construing these documents. The use of bold print, italics, underlining, and other similar format variations, is for emphasis and readability, and is also not intended to affect the interpretation of these documents. Whenever the

context so permits, the use of the plural shall include the singular, the singular the plural, and use of any gender shall be deemed to include all genders.

## LAND DESCRIPTION OF WATERSIDE III, A CONDOMINIUM

A PARCEL OF LAND LYING IN PART OF GOVERNMENT LOT 3, SECTION 3, TOWNSHIP 47 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTHERLY LINE OF SAID GOVERNMENT LOT 3 AND THE EASTERLY RIGHT-OF-WAY LINE OF ESTERO BOULEVARD (STATE ROAD S-865; THENCE NORTH  $89^{\circ}11'00''$  EAST ALONG SAID NORTHERLY LINE FOR A DISTANCE OF 2074.22 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE FROM WHICH THE RADIUS POINT BEARS SOUTH  $17^{\circ}58'47''$  WEST, SAID INTERSECTION BEING ALSO ON THE EASTERLY RIGHT-OF-WAY LINE OF BAY BEACH LANE; THENCE EASTERLY AND SOUTHEASTERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG SAID CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 750.00 FEET, A CENTRAL ANGLE OF  $17^{\circ}42'13''$  FOR AN ARC DISTANCE OF 231.74 FEET TO A POINT OF TANGENCY; THENCE SOUTH  $54^{\circ}19'00''$  EAST ALONG A NORTHEASTERLY RIGHT-OF-WAY LINE OF SAID BAY BEACH LANE FOR A DISTANCE OF 553.34 FEET; THENCE LEAVING SAID NORTHEASTERLY LINE SOUTH  $35^{\circ}41'00''$  WEST FOR A DISTANCE OF 60.00 FEET TO AN INTERSECTION WITH A SOUTHWESTERLY RIGHT-OF-WAY LINE OF SAID BAY BEACH LANE; THENCE SOUTH  $54^{\circ}19'00''$  EAST ALONG SAID SOUTHWESTERLY LINE FOR A DISTANCE OF 134.14 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY CONTINUING ALONG SAID SOUTHWESTERLY LINE AND ALONG SAID CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 1940.00 FEET, A CENTRAL ANGLE OF  $02^{\circ}43'03''$  FOR AN ARC DISTANCE OF 92.01 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE; THENCE SOUTH  $59^{\circ}02'44''$  EAST FOR A DISTANCE OF 906.54 FEET; THENCE NORTH  $87^{\circ}02'24''$  EAST FOR A DISTANCE OF 110.05 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE FROM WHICH THE RADIUS POINT BEARS SOUTH  $49^{\circ}59'28''$  WEST; THENCE SOUTHEASTERLY ALONG SAID CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 167.50 FEET, A CENTRAL ANGLE OF  $10^{\circ}03'15''$  FOR AN ARC DISTANCE OF 29.39 FEET TO A POINT OF TANGENCY; THENCE SOUTH  $29^{\circ}57'17''$  EAST FOR A DISTANCE OF 14.03 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY ALONG SAID CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 49.50 FEET, A CENTRAL ANGLE OF  $59^{\circ}30'03''$  FOR AN ARC DISTANCE OF 51.41 FEET TO A POINT OF TANGENCY; THENCE SOUTH  $89^{\circ}27'20''$  EAST FOR A DISTANCE OF 24.27 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY ALONG SAID CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 49.50 FEET, A CENTRAL ANGLE OF  $46^{\circ}33'45''$  FOR AN ARC DISTANCE OF 40.23 FEET TO A POINT OF TANGENCY; THENCE NORTH  $43^{\circ}58'55''$  EAST FOR A DISTANCE OF 11.65 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY ALONG SAID CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 167.50 FEET, A CENTRAL

ANGLE OF 43°03'29" FOR AN ARC DISTANCE OF 125.88 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND;

THENCE NORTH 66°15'43" WEST FOR A DISTANCE OF 40.05 FEET;  
THENCE NORTH 30°00'00" WEST FOR A DISTANCE OF 125.00 FEET;  
THENCE NORTH 60°00'00" EAST FOR A DISTANCE OF 50.29 FEET;  
THENCE NORTH 30°00'00" WEST FOR A DISTANCE OF 60.00 FEET;  
THENCE NORTH 60°00'00" EAST FOR A DISTANCE OF 65.00 FEET;  
THENCE SOUTH 30°00'00" EAST FOR A DISTANCE OF 60.00 FEET;  
THENCE NORTH 60°00'00" EAST FOR A DISTANCE OF 78.25 FEET;  
THENCE NORTH 00°00'00" EAST FOR A DISTANCE OF 100.30 FEET;  
THENCE SOUTH 90°00'00" EAST FOR A DISTANCE OF 67.43 FEET;  
THENCE SOUTH 00°00'00" WEST FOR A DISTANCE OF 20.50 FEET;  
THENCE SOUTH 90°00'00" EAST FOR A DISTANCE OF 61.50 FEET;  
THENCE SOUTH 75°05'29" EAST FOR A DISTANCE OF 21.13 FEET;  
THENCE SOUTH 00°00'20" WEST FOR A DISTANCE OF 78.33 FEET;  
THENCE SOUTH 59°59'33" EAST FOR A DISTANCE OF 79.92 FEET;  
THENCE SOUTH 12°26'34" EAST FOR A DISTANCE OF 42.68 FEET TO A POINT OF CURVATURE;

THENCE SOUTHERLY ALONG SAID CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 41.50 FEET, A CENTRAL ANGLE OF 42°26'34" FOR AN ARC DISTANCE OF 30.74 FEET TO A POINT OF TANGENCY;

THENCE SOUTH 30°00'00" WEST FOR A DISTANCE OF 80.86 FEET;  
THENCE SOUTH 13°33'39" EAST FOR A DISTANCE OF 35.44 FEET;  
THENCE NORTH 87°02'24" WEST FOR A DISTANCE OF 89.25 FEET TO A POINT OF CURVATURE;

THENCE WESTERLY ALONG SAID CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 529.50 FEET, A CENTRAL ANGLE OF 05°55'13" FOR AN ARC DISTANCE OF 54.71 FEET TO A POINT OF TANGENCY;

THENCE SOUTH 87°02'24" WEST FOR A DISTANCE OF 115.83 FEET TO THE POINT OF BEGINNING;

CONTAINING 1.958 ACRES OF LAND, MORE OR LESS.  
SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

AGNOLI, BARBER & BRUNDAGE, INC.  
PROFESSIONAL ENGINEERS, PLANNERS AND LAND SURVEYORS

BY   
RICHARD L. SHEPHARD, P.S.M. NO. 2474

REF: ABB DRAWING FILE NO. 5137





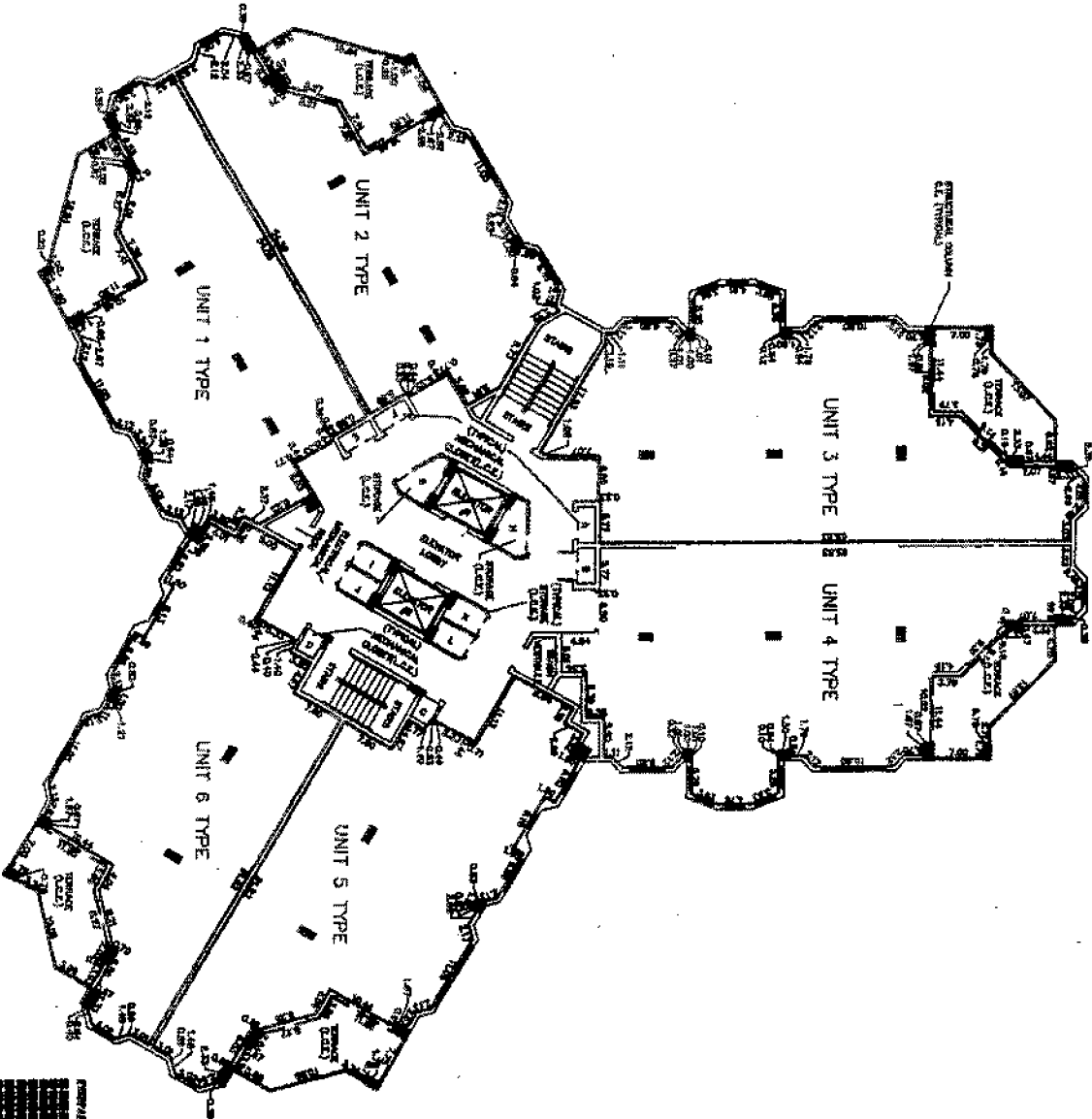








TYPICAL FLOOR PLAN 2ND THROUGH 10TH FLOOR



ALL IMPROVEMENTS ARE PROPOSED UNLESS OTHERWISE NOTED

WATERSIDE III, A CONDOMINIUM

CONDOMINIUM PLAT BOOK PAGE

EXHIBIT "B" SHEET 8 of 9



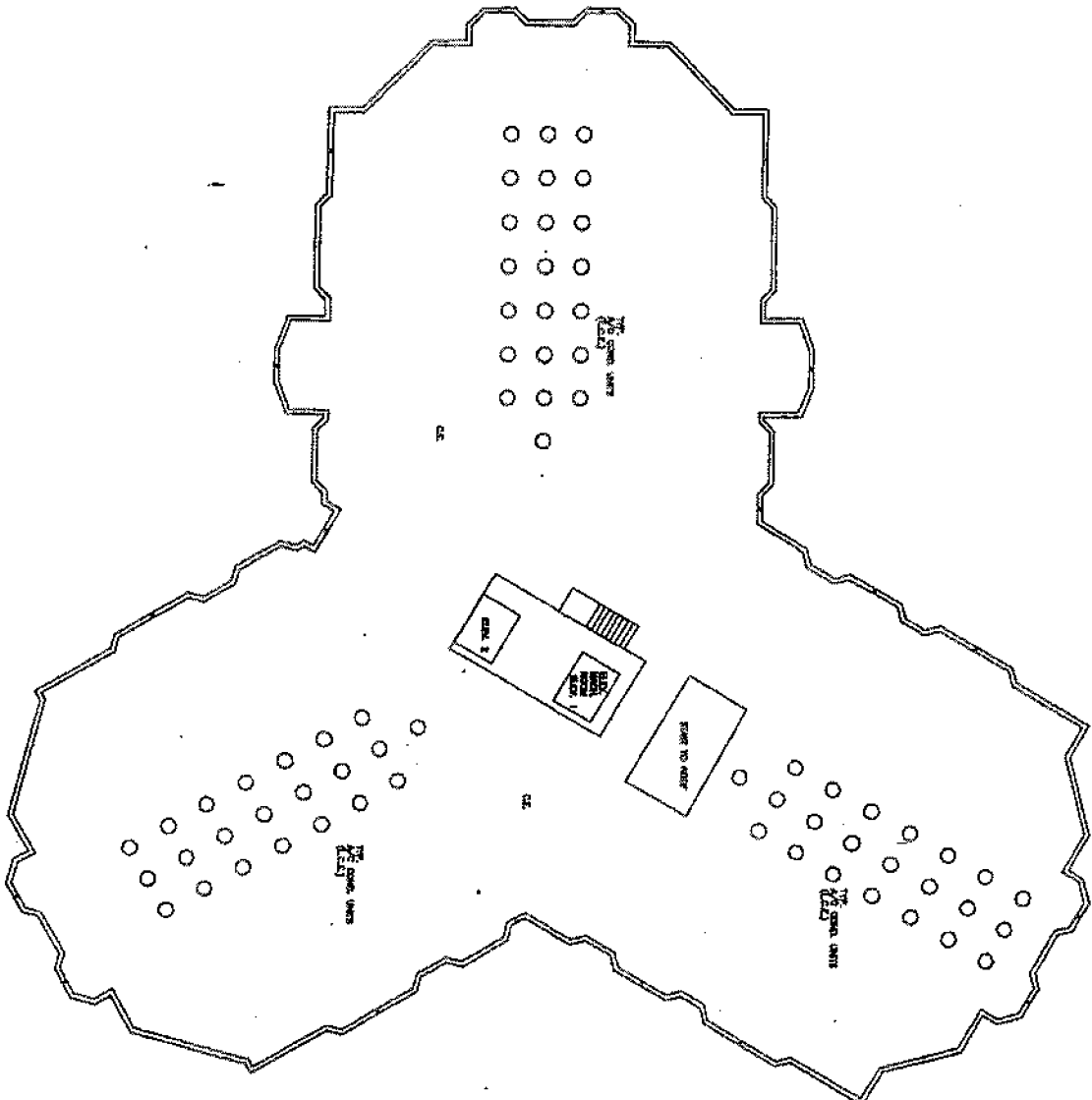
PROFESSIONAL ENGINEERS, PLANNERS, & LAND SURVEYORS

BRUNDAGE, INC.  
 1000 Lakeside Drive, Suite 1000  
 San Francisco, CA 94109  
 (415) 774-2111  
 (415) 774-2112  
 (415) 774-2113  
 (415) 774-2114  
 (415) 774-2115  
 (415) 774-2116  
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 (415) 774-2126  
 (415) 774-2127  
 (415) 774-2128  
 (415) 774-2129  
 (415) 774-2130





ROOF PLAN



WATERSIDE III,  
A CONDOMINIUM

ALL IMPROVEMENTS ARE PROPOSED  
UNLESS OTHERWISE NOTED

EXHIBIT "B"  
SHEET 2 OF 2

CONDOMINIUM PLAT BOOK PAGE

**RUDBAUGH, INC.**  
**ENGINEERS**  
**ARCHITECTS**  
**PLANNERS**  
**INTERIORS**  
**LAND SURVEYORS**  
**CONSULTANTS**

Professional engineers, planners, & land surveyors  
 10000 South State Road, Suite 200, Fort Myers, FL 33908-4100  
 Phone: (813) 938-1100 Fax: (813) 938-1101  
 Website: www.rudbaugh.com

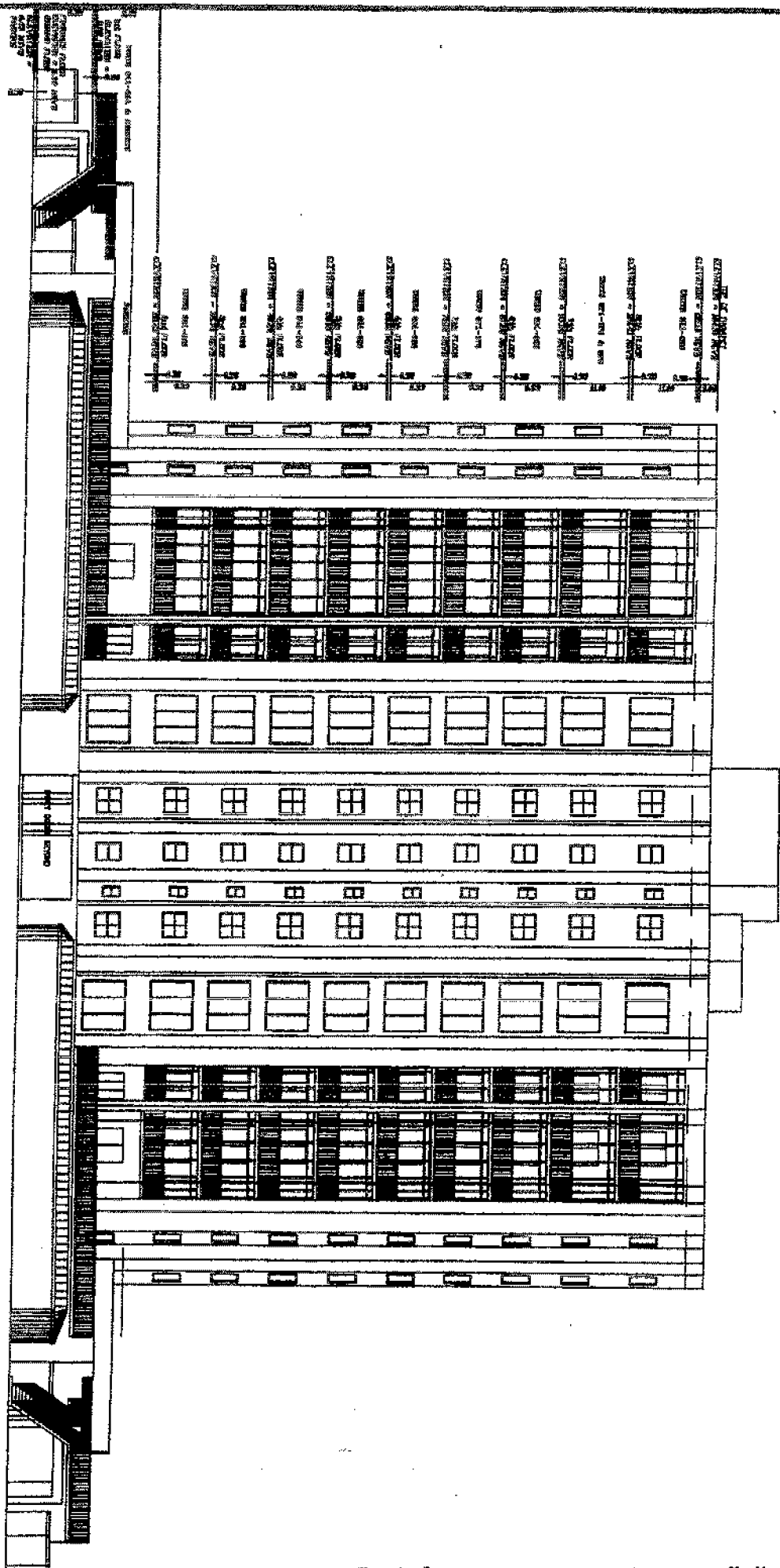




**WATERBURY III,  
A CONDOMINIUM**

CONDOMINIUM PLAT BOOK PAGE

EXHIBIT "B"  
SHEET 9 of 9



ELEVATION PLAN

PROFESSIONAL ARCHITECTS, PLANNERS, & LAND SURVEYORS  
**BRUNDAGE, INC.**  
**BRUNDAGE, INC.**  
**BRUNDAGE, INC.**  
 10000 N. 19th Ave., Suite 100, Phoenix, AZ 85021  
 P.O. Box 10000, Phoenix, AZ 85001  
 Tel: 602.998.1000  
 Fax: 602.998.1001  
 www.brundage.com

**CERTIFICATE OF SURVEYOR**

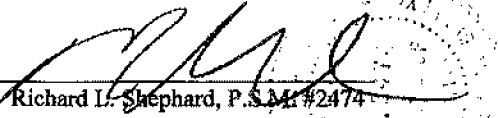
As to Building III of Waterside III, a Condominium, in Lee County, Florida;

I, Richard L. Shephard, of Collier County Florida, hereby certify as follows:

1. That I am a Professional Land Surveyor authorized to practice in the State of Florida.
2. That this Certificate is made as to Building III of Waterside III, a Condominium, in compliance with Section 718.104(4)(e), Florida Statutes.
3. That the applicable pages of Exhibit "B" to the Declaration of Condominium of Waterside III, a Condominium, together with the provisions of the Declaration relating to matters of survey, constitute a correct representation of the improvements as they now exist and there can be determined from them the identification, location, dimensions and size of the common elements, limited common elements and of the units within said building.
4. That all planned improvements including landscaping, utility services, and access to said units and common element facilities serving the Units within said building have been substantially completed.

Date: July 26, 2000

By:



Richard L. Shephard, P.S.M. #2474

Not valid unless embossed with the Professional's seal.

RLS/rt  
07-0393K0.CER

**FILED**

**ARTICLES OF INCORPORATION  
OF  
WATERSIDE III AT BAY BEACH CONDOMINIUM ASSOCIATION, INC.**

98 FEB 26 AM 11:14  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Pursuant to Section 617.02011, Florida Statutes, these Articles of Incorporation are created by Christopher Claussen, 7401 Estero Blvd., Ft. Myers Beach, Florida 33931, as sole incorporator, for the purposes set forth below.

**ARTICLE I. NAME.** The name of the corporation, herein referred to as the "Association", is Waterside III at Bay Beach Condominium Association, Inc.

**ARTICLE II. DEFINITIONS.** The definitions set forth in Section 4 of the Declaration of Condominium shall apply to the terms used in these Articles.

**ARTICLE III. PURPOSE AND POWERS.** The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act for the operation of Waterside III, a Condominium, located in Lee County, Florida. The Association is organized and shall exist upon a non-stock basis as a Florida corporation not for profit. No portion of any earnings of the Association shall be distributed or inure to the private benefit of any member, Director or officer. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not for profit, except as expressly limited or modified by these Articles, the Declaration of Condominium or by Chapter 718 Florida Statutes, as it may hereafter be amended, including but not limited to the following:

- (A) To levy and collect assessments against members of the Association to defray the costs, expenses and losses of the Condominium, and to use the proceeds of assessments in the exercise of its powers and duties.
- (B) To protect, maintain, repair, replace and operate the condominium property.
- (C) To purchase insurance upon the condominium property and Association property for the protection of the Association and its members.
- (D) To reconstruct improvements after casualty and to make further improvements of the property.
- (E) To make, amend and enforce reasonable rules and regulations governing the use of the common elements and association property, and the operation of the Association.
- (F) To approve or disapprove the transfer of ownership, leasing and occupancy of units, as provided by the Declaration of Condominium.
- (G) To enforce the provisions of the Condominium Act, the Declaration of Condominium, these Articles, the Bylaws and any rules and regulations of the Association.
- (H) To contract for the management and maintenance of the condominium property; to delegate to management any powers and duties of the Association in connection therewith except those

**WATERSIDE III - ARTICLES OF INCORPORATION**

Page 2

SWALM & MURRELL, P.A. ■ Attorneys at Law ■ 2375 Tamiami Trail N., Suite 308 ■ Naples, FL 34103

EXHIBIT "B"

EXHIBIT A to Certificate of Amendment

which are specifically required by law or by the condominium documents to be exercised by the Board of Directors or the members of the Association.

(I) To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the Condominium. **REV. REV. 83285 PG 3692**

(J) To enter into agreements, or acquire leaseholds, memberships, and other possessory, ownership or use interests in lands or facilities contiguous to the lands of the Condominium, if they are intended to provide enjoyment, recreation or other use or benefit to the unit owners.

(K) To borrow money without limit as to amount if necessary to perform its other functions hereunder.

All funds and the title to all property acquired by the Association shall be held by it in trust, for the benefit of the members in accordance with the provisions of the Declaration of Condominium, these Articles of Incorporation and the Bylaws.

**ARTICLE IV. MEMBERS.**

(A) The members of the Association are all record owners of legal title to one or more units in the Condominium, as further provided in the Bylaws.

(B) The share of a member in the funds and assets of the Association cannot be assigned or transferred in any manner except as an appurtenance to his unit.

(C) The owners of each unit, collectively, are entitled to one vote in Association matters, as further set forth in the Declaration of Condominium and the Bylaws. The manner of exercising voting rights shall be as set forth in the Bylaws.

**ARTICLE V. TERM.** The term of the Association shall be perpetual.

**ARTICLE VI. BYLAWS.** The Bylaws of the Association may be altered, amended or rescinded in the manner provided therein.

**ARTICLE VII. DIRECTORS AND OFFICERS.**

(A) The affairs of the Association will be administered by a Board of Directors consisting of the number of Directors specified in the Bylaws, but never less than three (3) Directors. In the absence of a Bylaw provision to the contrary the Board shall consist of five (5) Directors.

(B) Directors shall be elected by the members as provided in the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided in the Bylaws.

**WATERSIDE III - ARTICLES OF INCORPORATION**

Page 3

(C) The business of the Association shall be conducted by the officers designated in the Bylaws. The officers shall be elected each year by the Board of Directors at its first meeting after the annual meeting of the members of the Association, and they shall serve at the pleasure of the Board.

**ARTICLE VIII. AMENDMENTS.** Amendments to these Articles shall be proposed and adopted in the following manner:

(A) Proposal. Amendments to these Articles may be proposed by a majority of the Board or by written petition signed by the owners of at least one-fourth (1/4th) of the units.

(B) Procedure. Any amendment or amendments to these Articles so proposed by the Board or unit owners, shall be submitted to a vote of the members not later than the next annual meeting for which proper notice has not yet been given, but can still be reasonably given.

(C) Vote Required. Except as otherwise provided herein, or by law, a proposed amendment to these Articles of Incorporation shall be adopted if it is approved at any annual or special meeting, by a majority of the voting interests of the Association, or if it is approved in writing by a majority of the voting interests without a meeting, provided that notice of any proposed amendment has been given to the members, and the notice contains the full text of the proposed amendment.

(D) Effective Date. An adopted amendment shall become effective upon filing with the Secretary of State and recording a certified copy in the Public records of Lee County, Florida.

**ARTICLE IX. INITIAL DIRECTORS.** The initial Directors of the Association shall be:

Christopher G. Claussen  
7401 Estero Boulevard  
Ft. Myers Beach, Florida 33931

Robert G. Claussen  
7401 Estero Boulevard  
Ft. Myers Beach, Florida 33931

Jack Sterling  
7401 Estero Boulevard  
Ft. Myers Beach, Florida 33931

**ARTICLE X. INITIAL REGISTERED AGENT.** The initial registered office of the Association shall be at:

2075 Tamiami Trail N., Suite 308  
Naples, Florida 34103

The initial registered agent at said address shall be:

Swalm & Murrell, P.A.

**ARTICLE XI. INDEMNIFICATION.** To the fullest extent permitted by Florida law, the Association must indemnify and hold harmless every Director and every officer of the Association against all expenses and liabilities, including attorney's fees, actually and reasonably incurred by or imposed on him personally in connection with any legal proceeding (or settlement or appeal of such proceeding) to which he may be a party because of his being or having been a Director or officer of the Association. The foregoing right of indemnification shall not be available if a judgment or other final adjudication established that his actions or omissions to act were material to the cause adjudicated and involved:

- (A) Willful misconduct or a conscious disregard for the best interests of the Association, in a proceeding by or in the right of the Association to procure a judgment in its favor.
- (B) A violation of criminal law, unless the Director or officer had no reasonable cause to believe his action was unlawful or had reasonable cause to believe his action was lawful.
- (C) A transaction from which the Director or officer derived an improper personal benefit.
- (D) Recklessness, or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard for human rights, safety or property, in an action by or in the right of someone other than the Association or a member.
- (E) Wrongful conduct by Directors or officers appointed by the Developer, in a proceeding brought by or on behalf of the Association.

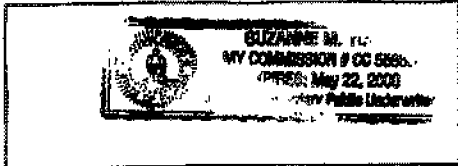
In the event of a settlement, the right to indemnification shall not apply unless the Board of Directors approves such settlement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which a Director or officer may be entitled.

WHEREFORE the incorporator has caused these presents to be executed this 25th day of February, 1998.

*[Signature]*  
By: Christopher Claussen

STATE OF FLORIDA  
COUNTY OF COCLIF

The foregoing instrument was acknowledged before me this 23rd day of February, 1998, by Christopher Claussen. He is personally known to me or did produce \_\_\_\_\_ as identification.



Notarial Seal

*[Signature]*  
Notary Public Signature

Print name



ACCEPTANCE BY REGISTERED AGENT

Having been named to accept service of process for the above-named corporation, at the place designated in these Articles of Incorporation, I hereby accept the appointment to act in this capacity, and agree to comply with the provisions of the laws of the State of Florida, relative to keeping open said office.

SWALM & MURRELL, P.A.

By: *[Signature]*  
John M. Swalm III, President

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98 FEB 26 AM 11:14  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

WATERSIDE III - ARTICLES OF INCORPORATION

Page 6

SWALM & MURRELL, P.A. ■ Attorneys at Law ■ 2375 Tamiami Trail N., Suite 308 ■ Naples, FL 34103

**AMENDED AND RESTATED BYLAWS  
OF  
WATERSIDE III AT BAY BEACH CONDOMINIUM ASSOCIATION, INC.**

**AMENDED AND RESTATED BYLAWS**

**EXHIBIT "C"**

12269538 \_3

**EXHIBIT B to Certificate of Amendment**



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**NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE BYLAWS. FOR PRESENT TEXT SEE EXISTING BYLAWS.**

**AMENDED AND RESTATED BYLAWS**

**OF**

**WATERSIDE III AT BAY BEACH CONDOMINIUM ASSOCIATION, INC.**

1. **GENERAL.** These are the Amended and Restated Bylaws of Waterside III at Bay Beach Condominium Association, Inc., hereinafter the "Association", a corporation not for profit organized under the laws of Florida for the purpose of operating a condominium. All prior Bylaws are hereby revoked and superseded in their entirety.

1.1 **Principal Office.** The principal office of the Association shall be at 4198 Bay Beach Lane- Office, Fort Myers, FL 33931 or another place as the Board may determine.

1.2 **Seal.** The seal of the Association shall be circular in shape inscribed with the name of the Association, the year of its organization, and the words "Florida" and the year of establishment. The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

1.3 **Definitions.** The definitions set forth in the Declaration of Condominium, as amended ("Declaration") shall apply to terms used in these Bylaws. If a term is not defined in the Declaration and the case clearly requires the term be defined then the definitions set forth in Florida Statutes Chapter 718 ("Condominium Act") shall also apply to terms used in these Bylaws. The Condominium Documents are sometimes referred to collectively herein as the "Governing Documents".

2. **MEMBERS.**

2.1 **Qualifications.** The members of the Association shall be the record Owners of legal title to the Units. In the case of a Unit subject to an agreement for deed, the purchaser in possession shall be deemed the Owner of the Unit for purposes of determining voting and use rights. Membership shall become effective upon the occurrence of the last to occur of the following events:

- (A) Recording in the Public Records of a Deed or other instrument evidencing legal title to the Unit.
- (B) Approval by the Board of Directors as provided for in the Declaration of Condominium.
- (C) Delivery to the Association of a copy of the recorded deed or other instrument evidencing title.
- (D) Delivery to the Association, if required, of a written designation of the Primary Occupants.

AMENDED AND RESTATED BYLAWS

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EXHIBIT B to Certificate of Amendment

2.2 Voting Interest. The members of the Association are entitled to one (1) vote for each Unit owned by them. The total number of possible votes is equal to the total number of Units. The vote of a Unit is not divisible. If a Unit is owned by one (1) person, his or her right to vote shall be established by the record title to the Unit. If a Unit is owned jointly by two (2) or more persons, that Unit's vote may be cast by any one of the record Owners. If two (2) or more Owners of a Unit do not agree among themselves how their one vote shall be cast, no vote for that Unit shall be counted. If the Owner of a Unit is a corporation, partnership, limited liability company, trust or other artificial entity, the vote of that Unit shall be cast by the Unit's Primary Occupant designated as set forth in the Declaration of Condominium. Owners who are delinquent in any monetary amount owed to the Association shall have their voting rights suspended if allowed by the Condominium Act, as amended, and after notice to the Owner of such suspension.

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

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

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

### 3. MEMBERS' MEETINGS: VOTING.

3.1 Annual Meeting. There shall be an annual meeting of the members in each calendar year. The annual meeting shall be held at the Condominium Property (or such other location within fifteen (15) miles of the Condominium Property if specified in the notice), at a day, place and time designated by the Board of Directors. The Board shall endeavor to schedule the annual meeting to occur in the first quarter of the calendar year. The purpose of the annual meeting is to conduct the election of directors and for any purpose as may be transacted by the members. During the annual meeting, the ballots cast in the annual election of Directors shall be counted and results announced.

3.2 Special Members' Meetings. Special members' meetings must be held whenever called by the President, Vice President, or by a majority of the Directors, and may also be called by written petition of at least ten percent (10%) of the Voting Interests. The business at any special meeting shall be limited to the items specified in the notice of meeting.

3.3 Notice of Meetings; Waiver of Notice. Notice of all members' meetings must state the time, date, and place of the meeting, and include an agenda for the meeting. The notice of meeting must be mailed to each member at the address which appears on the books of the Association (which shall be

AMENDED AND RESTATED BYLAWS

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EXHIBIT B to Certificate of Amendment

the address last furnished to the Association by the Owner), or may be furnished by hand-delivery, or by electronic transmission in the manner set forth in Section 617.0141, Florida Statutes, to the extent that a member has consented to receive notices by electronic transmission and has not revoked such consent. Any such consent to receiving electronic transmissions shall be deemed revoked if: the Association is unable to deliver by electronic transmission two consecutive notices given by the Association in accordance with such consent; and such inability becomes known to the Secretary, Assistant Secretary or other authorized person responsible for the giving of notice. However, the inadvertent failure to treat such inability as a revocation does not invalidate any meeting or other action. Notice of a meeting called to recall a member or members of the Board of Directors pursuant to Section 718.112(2)(j) of the Condominium Act shall not be given by electronic transmission. The member is responsible for providing the Association with notice of any change of mailing address, facsimile number or electronic mail address. To the extent that a member has provided the Association with a facsimile number or electronic mail address and consented to receive notices by electronic transmission, such information shall be considered an "official record" until the member has revoked his or her consent. However, the Association is not liable for an inadvertent disclosure of an electronic mail address or facsimile number. The notice of meeting must be mailed, hand-delivered, or electronically transmitted at least fourteen (14) days before the meeting. An affidavit of the officer or other person making such mailing shall be retained in the Association records as proof of mailing. If ownership of a Unit is transferred after notice has been mailed, no separate notice to the new Owner is required. Attendance at any meeting by a member constitutes waiver of notice by that member unless the member objects to the lack of notice at the beginning of the meeting. A member may waive notice of any meeting at any time, but only by written waiver. The Board has the authority to adopt rules pertaining to the procedure for conspicuously posting meeting notices and agenda.

3.4 Notice of Annual Meeting; Special Requirements. Notice of the annual meeting shall be posted in a conspicuous location on the Condominium Property in accordance with Board rule for at least fourteen (14) continuous days prior to the annual meeting.

3.5 Quorum. A quorum at meetings of the members shall be attained by the presence, either in person or by proxy, of members entitled to cast at least thirty percent (30%) of the votes in the Association. Voting Interests which have been suspended pursuant to the terms of the Declaration or Florida law shall not be considered for purposes of establishing a quorum during the period of suspension.

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

3.7 Proxy Voting. To the extent lawful, any person entitled to attend and vote at a members' meeting may establish his or her presence and cast his or her vote by proxy. A proxy shall be valid only for the specific meeting for which it was originally given and any lawful adjournment of that meeting, and no proxy is valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the vote for the Unit, specify the date, time and place of the meeting for which it is given, and must be delivered to the Secretary, or other individual designated by the Board, by the appointed time of the meeting or

#### AMENDED AND RESTATED BYLAWS

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adjournment thereof. A photostatic, facsimile, email, or equivalent reproduction of a proxy is a sufficient proxy. Holders of proxies need not be members. No proxy shall be valid if it names more than one person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy. Except as specifically otherwise provided herein, members may not vote by general proxy, but may vote by limited proxy. Limited proxies and general proxies may be used to establish a quorum. Limited proxies and general proxies shall not be used in the election of directors. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. Limited proxies shall be used for any matter for which the Condominium Documents or the Condominium Act requires or permits a vote of the members and for which a general proxy is not permitted, including, without limitation, votes taken to: waive or reduce reserves; waive financial statement requirements, and amend the Condominium Documents. Proxy questions relating to waiving or reducing the funding of reserves or using existing reserve funds for purposes other than purposes for which the reserves were intended shall contain the following statement in capitalized, bold letters in a font size larger than any other used on the face of the proxy ballot: **WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.** Notwithstanding the foregoing, members may vote in person at members' meetings.

3.8 Adjourned Meetings. Any duly called meeting of the members may be adjourned to be reconvened at a specific later time by vote of the majority of the Voting Interests present in person or by proxy, regardless of whether a quorum has been attained. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted at the continuance, provided a quorum is then present, in person or by proxy.

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

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

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- (I) New Business (with the items to be voted on specifically listed in the agenda and in the limited proxy).
- (J) Adjournment.

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

3.11 Parliamentary Rules. Roberts' Rules of Order (latest edition) shall guide the conduct of the Association meeting when not in conflict with Florida law or the Condominium Documents. The Chairman of the meeting may appoint a Parliamentarian whose decision on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

3.12 Action by Members Without Meeting. Any action required or permitted to be taken at a meeting of the members may be taken by mail without a meeting if written consents, setting forth the action to be taken, are signed by the members having not less than the minimum number of votes that would be necessary to take such action at a meeting in the manner required by Chapter 617, Florida Statutes. To be effective, the action must be evidenced by one or more written consents describing the action taken, dated and signed by approving members having the requisite number of votes and entitled to vote on such action, and delivered to the Association to its principal office in this state, its principal place of business, the secretary, or another officer or agent of the Association having custody of the book in which proceedings of meetings of members are recorded. Written consent to take the corporate action referred to in the consent is not effective unless the consent is signed by members having the requisite number of votes necessary to authorize the action within ninety (90) days after the date of the earliest dated consent and is delivered in the manner required by this section.

- A. Any written consent may be revoked prior to the date that the Association receives the required number of consents to authorize the proposed action. A revocation is not effective unless in writing and until received by the Association at its principal office in this state or its principal place of business, or received by the secretary or other officer or agent of the Association having custody of the book in which proceedings of meetings of members are recorded.
- B. Within thirty (30) days after obtaining authorization by written consent, notice must be given to those members who are entitled to vote on the action but who have not consented in writing. The notice must fairly summarize the material features of the authorized action.
- C. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

Nothing in this paragraph shall be construed in derogation of members' rights to call a special member's meeting, as provided for elsewhere in these Bylaws.

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4. **BOARD OF DIRECTORS.** The administration of the affairs of the Association shall be by the Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Condominium Documents, shall be exercised by the Board of Directors, subject to approval or consent of the members only when such is specifically required by the Condominium Act or the Condominium Documents. The Board is specifically empowered to perform all functions set forth in the governing documents of the Condominium and the Association Property that the Association shall operate pursuant to corporate merger.

4.1 **Number and Terms of Service.** The affairs of the Association shall be managed by a Board of Directors consisting of five (5) Directors. Directors are currently serving staggered terms of two (2) years. A Director's term will end at the annual election at which his or her successor is to be duly elected, unless he sooner resigns, or is removed as provided by Section 4.6 below. Directors shall be elected by the members as described in Section 4.3 below, or in the case of a vacancy, as provided in Section 4.5 below.

4.2 **Qualifications.** Each Director must be a: member; or a Primary Occupant (in the case of Units required to designate Primary Occupants pursuant to the Declaration); or the spouse of a member or Primary Occupant. Thus, trustees of trusts, partners of the partnership and officers of corporations are eligible to run for the Board if they are also the Primary Occupant of the Unit as defined in the Declaration. Co-owners of a unit may not serve as board members at the same time unless they own more than one unit or unless there are not enough eligible candidates to fill the vacancies on the Board of Directors at the time of the vacancy. A person who has been suspended or removed by the Division under Chapter 718, or who is delinquent in the payment of any fee, fine or special or regular Assessment as provided in Chapter 718, is not eligible for Board membership. A person who has been convicted of a felony in this State or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction that would be considered a felony if committed in this State, is not eligible for Board membership unless such felon's civil rights have been restored for a period of no less than five (5) years as of the date on which such person seeks election to the Board. The validity of an action by the Board of Directors is not affected if it is later determined that a member of the Board of Directors is ineligible for Board of Directors membership due to having been convicted of a felony. A Director more than ninety (90) days delinquent in the payment of any monetary obligation due the Association shall be deemed to have abandoned the office, creating a vacancy in the office to be filled according to Florida law and any applicable Division rules. A Director charged by information or indictment with a felony theft or embezzlement offense involving the Association's funds or property must be removed from office, creating a vacancy in the office to be filled according to Florida law until the end of the period of the suspension or the end of the Director's term of office, whichever occurs first. While such Director has such criminal charge pending, he or she may not be appointed or elected to a position as a Director. However, if the charges are resolved without a finding of guilt, the Director shall be reinstated for the remainder of his or her term of office, if any.

4.3 **Nomination and Elections.** On the day of each annual meeting, the Members shall elect by secret written ballot as many Directors as there are regular terms of Directors expiring. The Board of Directors may not appoint a committee for the purpose of nominating candidates for the election of Directors. However, the Board of Directors may appoint a search committee to encourage qualified persons to become candidates.

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A. First Notice. The First Notice of each annual election shall be mailed, hand-delivered or electronically transmitted to all Owners at least sixty (60) days in advance. Any person eligible to serve as a Director who wishes to qualify as a candidate shall notify the Association in writing of his or her desire to be a candidate at least forty (40) days prior to the annual election, and must be eligible to serve on the Board of Directors at the time of such notification deadline in order to have his or her name listed as a proper candidate on the election ballot or to serve on the Board of Directors. Notice shall be deemed effective when received by the Association. Any person indicating his or her desire to qualify as a candidate may also return a separate information sheet, no larger than 8 1/2 inches by 11 inches, which describes the candidate's background, education and qualifications for office, and any other information deemed relevant by the candidate, which information sheet must be furnished by the candidate at least thirty-five (35) days prior to the election. The Association has no liability for the contents of the information sheets prepared by the candidates.

B. Second Notice. The Association shall mail, hand-deliver or electronically transmit a Second Notice of the election, together with the candidate information sheets and ballot which shall list all candidates in alphabetical order by surname, at least fourteen (14) days in advance of the election; provided, however, that if the number of candidates does not exceed the number of vacancies, then no election shall be required, and the candidates become members of the Board of Directors effective upon the adjournment of the annual meeting. Any remaining vacancies shall be filled by the affirmative vote of the majority of the Directors making up the newly constituted Board even if the Directors constitute less than a quorum or there is only one (1) Director.

C. Balloting. Directors shall be elected by a plurality of the ballots cast. In the event of a tie, the Association shall proceed with a runoff election pursuant to rules adopted by the Division. There shall be no quorum requirement; however, at least twenty percent (20%) of the Members must cast a ballot in order to have a valid election of Directors. A Member shall not permit any other person to vote his or her ballot, and any ballots improperly cast are invalid. Notwithstanding the foregoing, a Member who needs assistance in casting the ballot by reason of blindness, disability, or inability to read or write or other reasons as set forth in Section 101.051, Florida Statutes, may obtain such assistance. In the election of Directors, there shall be appurtenant to each Unit as many votes for Directors as there are Directors to be elected, but no Unit may cast more than one (1) vote for any candidate, it being the intent hereof that voting for Directors shall be non-cumulative. Notices, candidate information sheets and ballots may be given by electronic transmission (to those Members who have so consented), pursuant to rules adopted by the Division.

D. Certification. Within ninety (90) days after being elected or appointed, each newly elected or appointed Director shall certify in writing to the Secretary that he or she has read the Declaration of Condominium, Articles of Incorporation, Bylaws and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the Members. In lieu of this written certification, within ninety (90) days after being elected or appointed, the newly elected or appointed Director may submit a certificate of having satisfactorily completed the educational curriculum administered by a Division-approved condominium education provider within one (1) year before or ninety (90) days after the date of election or appointment. The written certification or educational certificate is valid and does not have to be resubmitted as long as the Director serves on the Board of Directors without interruption. A Director who fails to timely file the written certification or educational

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certificate is suspended from service on the Board of Directors until he or she complies with the requirements set forth above. The Board of Directors may temporarily fill the vacancy during the period of suspension. The Secretary shall cause the Association to retain a Director's written certification or educational certificate for inspection by the Members for five (5) years after a Director's election. Failure to have such written certification or educational certification on file does not affect the validity of any Board action.

E. Challenge. Any challenge to the election process must be commenced within sixty (60) days after the election results are announced.

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

4.5 Replacement. If a vacancy occurs on the Board of Directors as a result of a recall by Unit Owners and less than a majority of the Members are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining Directors. If vacancies occur on the Board of Directors as a result of a recall by Unit Owners and a majority or more of the Members are removed, the vacancies shall be filled pursuant to Chapter 718 of the Florida Statutes.

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

4.6.1 Recall of Directors by Meeting. A special meeting of the Unit Owners to recall a member or members of the Board may be called by at least ten percent (10%) of the Voting Interests, giving notice of the meeting as required for any other members' meeting, and the notice shall state the purpose of the meeting. Electronic transmission may not be used as a method of giving notice of a meeting called in whole or in part for the purpose of a recall. If the recall is approved by a majority of the entire membership by a vote at a meeting, the recall will be effective as provided below. The Board shall duly notice and hold a Board meeting within five (5) full business days of the adjournment of the members' meeting to recall one or more Board members. Such Director shall be recalled effective immediately and shall turn over to the Board within ten (10) full business days after the vote any and all Association records and property in his or her possession.

4.6.2 Recall of Directors by Written Agreement. If the proposed recall is by a written agreement by a majority of the entire membership, the written agreement or a copy thereof shall be served on the Association by certified mail or by personal service in the manner authorized by Chapter 48, Florida Statutes and the Florida Rules of Civil Procedure. The Board shall duly notice and hold a Board meeting within five (5) full business days after receipt of the written agreement. Such Director or Directors shall be recalled effective immediately and shall turn over to the Board within ten (10) full

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business days any and all Association records and property in his or her possession, or shall proceed as set forth in Section 4.6.3 below.

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

4.6.4 Filling Vacancies Caused by Recall. If a vacancy occurs on the Board as a result of a recall and less than a majority of the Directors are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining Directors. If for any reason, the remaining Board members are unwilling or unable to appoint a successor, the members shall elect successors by written ballot in the same manner as provided generally for regular annual elections, except that the election need not take place on the date of the annual meeting. If vacancies occur on the Board as a result of a recall and a majority or more of the Directors are removed, the vacancies shall be filled in accordance with administrative rules of the Division.

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

4.7 Organizational Meeting. The organizational meeting of a new Board of Directors shall be held within ten (10) days after the election. The organizational meeting may occur immediately following the election, in which case notice of the organizational meeting may be provided by the existing Board as a notation in the Second Notice of Annual Meeting. If the notice of the organizational meeting is not provided and posted as part of the Second Notice of Annual Meeting, notice of the Board's organizational meeting must be posted conspicuously on the Condominium Property for at least forty-eight (48) continuous hours in advance of the meeting.

4.8 Other Meetings. Meetings of the Board may be held at such time and place in Lee County, Florida, as shall be determined from time to time by the President or a majority of the Directors. Notice of meetings shall be given to each Director, personally or by mail, telephone, telegram or other form of electronic transmission at least forty-eight (48) hours prior to the day named for such meeting. If notice is transmitted by facsimile, notice shall be effective if correctly directed to a number at which the Director has consented to receive notice. If notice is transmitted by electronic mail, notice shall be effective if correctly directed to an email address at which the Director has consented to receive notice.

4.9 Notice to Owners. All meetings of the Board of Directors are open to Owners and notices of all Board of Directors meetings shall be posted conspicuously on the Condominium Property for at least forty-eight (48) continuous hours before each Board of Directors meeting, except in an emergency. Notice of all Board of Directors meetings must specifically identify all agenda items. Any item not included on the agenda may be taken up on an emergency basis by at least a majority plus one (1) of the members of the Board of Directors. Such emergency action must be noticed and ratified at the next regular meeting of the Board of Directors. If twenty percent (20%) of the Voting Interests petition the Board of Directors to address an item of business, the Board of Directors at its next regular Board of Directors meeting or at a special meeting of the Board of Directors, but not later than sixty (60) days after the receipt of the petition, shall place the item on the agenda. Notice of any Board of Directors

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meeting at which a non-emergency Special Assessment will be considered shall conform to the requirements set forth in Section 6.6 below. Notice of any Board of Directors meeting at which an amendment to Rules and Regulations concerning the use of a Unit, as permitted by the Declaration or by the Condominium Act, will be considered must be mailed, hand-delivered, or electronically transmitted (in the latter case, to those Owners who have so consented) to all Owners and posted conspicuously on the Condominium Property at least fourteen (14) days before the meeting. Notice of any Board of Directors meeting at which a budget will be adopted or amended shall conform to the requirements of Section 6.2 below. The rights of Owners to attend Board of Directors meetings includes the right to speak with reference to all designated agenda items, subject to the Rules and Regulations of the Association as to the manner of doing so. Evidence of compliance with the notice and posting requirements set forth in this Section 4.9 and elsewhere in the Condominium Documents (including, without limitation, Sections 6.2 and 6.6 of these By-Laws) may be made by an affidavit executed by the person giving notice and posting same, and filed with the Association's official records. Notwithstanding anything to the contrary contained in the Condominium Documents, meetings of the Board of Directors or a committee with the Association's attorney with respect to proposed or pending litigation, if the meeting is held for the purpose of seeking or rendering legal advice, and meetings held for the purpose of discussing personnel matters, shall not be open to the Owners. Notices of Board of Directors meetings may be given by electronic transmission (to those Members who have so consented) in lieu of mail or hand-delivery, when the latter two (2) methods are otherwise required pursuant to the Condominium Act. Tape recording and videotaping of Board of Directors meetings shall be governed by the Rules and Regulations.

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

4.11 Quorum of Directors. A quorum at a Board meeting shall exist when at least a majority of all Directors are present at a duly called meeting. Directors may participate in any meeting of the Board, by a conference telephone call or similar communicative arrangement whereby all persons participating by phone or physically present at the meeting can hear and speak to all other persons. Participation by such means shall be deemed equivalent to presence in person at a meeting. Directors may not vote or participate by proxy at Board meetings. Directors can communicate by using e-mail but may not vote or participate at Board Meetings via e-mail.

4.12 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum exists shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Condominium Documents or by Florida law. A director who is present at a meeting of the Board shall be deemed to have voted with the majority on any item of business voted upon, unless he voted against such action or abstained because of an asserted, actual conflict of interest. A Director who abstains from voting on any action taken on any corporate matter shall be presumed to have taken no position with regard to the action. The vote or abstention of each Director present on each issue voted upon shall be recorded in the minutes. In the event of an emergency such as a hurricane where it is impossible for the Directors to participate by a conference telephone call or similar communicative arrangement whereby all persons participating by phone or physically present at the meeting can hear and speak to all other persons, action required or permitted by Florida law or the Condominium Documents to be taken at a Board meeting may be taken without a

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meeting if all Directors sign written consents describing the action taken. Action taken without a meeting is effective when the last written consent is obtained, unless the written consent specifies a different effective date. The written approval of a Director in the action of a meeting by signing and concurring in the minutes of that meeting shall constitute the presence of that Director for the action taken at said meeting, but such concurrence cannot be used for the purpose of determining a quorum.

4.13 Adjourned Meetings. The majority of the Directors present at any meeting of the Board, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specific time and date. Notice of the rescheduled or reconvened meeting shall be provided in the manner set forth in Section 4.9 above. At any reconvened meeting, provided a quorum is present, any business may be transacted that might have been transacted at the meeting as originally called.

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

4.15 Compensation of Directors and Officers. Neither Directors nor officers shall receive compensation for their services as such. Directors and officers may be reimbursed for all actual and proper out-of-pocket expenses, as determined by the Treasurer, relating to the proper discharge of their respective duties. Reimbursement of the Treasurer's expenses shall be approved by the President, or his or her designee.

4.16 Committees. The Board of Directors may appoint from time to time such standing or temporary committees as the Board deems necessary and convenient for the efficient and effective operation of the Condominium. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. Meetings of a committee which advises the Board on the proposed annual budget, or a committee which has authority to take final action on behalf of the Board, shall be open to attendance by any Unit Owner, and notice of such committee meetings shall be posted in the same manner as required in Section 4.9 above for Board meetings, including by broadcast on closed-circuit cable television system serving the Association. All other committees shall not be subject to the requirements of Section 718.112(2)(c) of the Condominium Act, as set forth in Section 4.9 of these Bylaws, but may voluntarily post notices of their meetings and open such meetings to attendance by the members. Committee meetings with the Association's attorney with respect to proposed or pending litigation, if the meeting is held for the purpose of seeking or rendering legal advice, and meetings held for the purpose of discussing personnel matters, shall not be open to the Owners, regardless of whether the committee meeting is otherwise subject to the open meeting requirements of Fla. Stats. 718.112(2)(c).

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

- (A) Call to Order.
- (B) Call of the Roll or certification of quorum.
- (C) Proof of Notice and Posting.
- (D) Reading or disposal of any unapproved minutes.

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- (E) Consideration of communications. (if applicable)
- (F) Resignations. (if applicable)
- (G) Reports of officers and manager.
- (H) Reports of committees.
- (I) Unfinished business.
- (J) New business.
- (K) Adjournment.

4.18 Powers and Duties of the Board of Directors. All of the powers and duties of the Association existing under the Florida Not-For-Profit Corporation Statute, the Condominium Act, the Declaration of Condominium, the Articles of Incorporation and these By-Laws shall be exercised exclusively by the Board of Directors, or its duly authorized agents, contractors, or employees subject only to the approval by unit owners when such is specifically required. The Board is specifically empowered to perform all functions set forth in the governing documents for both the Condominium and all other Association Property and common areas that the Association shall operate pursuant to corporate merger. Such powers and duties of the Directors shall include, but not limited to the following:

- 4.18.1 To adopt budgets and make and collect assessments and fees from and against owners and users to defray the expenses of the Association.
- 4.18.2 To use the proceeds of assessments in the exercise of its powers and duties.
- 4.18.3 To supervise and oversee the maintenance, repair, replacement and operation of the Condominium Property and all other Association property within the community of Waterside III.
- 4.18.4 To enact rules and regulations concerning the use of the common elements, the Association Property and the units subject to any limitations contained in the Condominium Act, and the Declaration of Condominium.
- 4.18.5 To reconstruct common element improvements after casualty and the further improvement of the property.
- 4.18.6 To approve or disapprove proposed actions in the manner provided by the Condominium Declaration.
- 4.18.7 To enforce by legal means the provisions of applicable laws and the Condominium documents.
- 4.18.8 To contract for management of the Condominium.

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- 4.18.9 To carry insurance for the protection of the unit owners, users and the Association.
- 4.18.10 To pay the cost of all utility services rendered to the Condominium and not billed to owners of individual units or users.
- 4.18.11 To employ personnel for reasonable compensation and grant them such duties as seem appropriate for proper administration of the purposes of the Association.
- 4.18.12 To bring and defend suits, make and execute contracts, deeds, mortgages, leases, licenses and other instruments by its officers and to purchase, own, lease, convey and encumber real and personal property. To grant easements and licenses over the Condominium property and Association Property necessary or desirable for proper operation of the Condominium.
- 4.18.13 To Comply with Requirements for Entering Contracts for Products and Services. All contracts for the purchase, lease or renting of materials or equipment or for services, or which are not to be fully performed within one (1) year, shall be in writing. As to any such contract which requires payment exceeding five (5%) percent of the total annual budget of the Association including reserves except for contract with employees of the Association, and for attorneys, accountants, Community Association managers, architects, engineers and landscape architects, the Association shall obtain competitive bids unless the products and services are needed as the result of an emergency or unless the desired supplier is the only source of supply within Lee County. The Association need not accept the lowest bid. This Paragraph shall be deemed to incorporate the provisions of the Condominium Act as it exists from time to time.
- 4.18.14 To Levy Fines. The Directors may, pursuant to F.S. 718.303, impose fines for failure to comply with the provisions of the Condominium documents, including the rules and regulations, by owners, occupants, licensees, tenants and invitees. The procedure for imposing such fines is set forth in Section 8.1 below.
- 4.18.15 To Appoint Committees. The Directors may appoint committees, except that committees for the purpose of nominating candidates for election to the Board of Directors are prohibited. The Board may, however, appoint a search committee to encourage qualified persons to become candidates for the Board. All committees and committee members shall serve at the pleasure of the Board.
- 4.18.16 To Maintain Fire Safety Compliance. The Directors may accept a Certificate of Compliance from licensed electrical contractor or electrician as evidence of compliance of the Condominium units with the applicable Fire and Life Safety Code.

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4.18.17 To Adopt Specifications for Hurricane Shutters. The Board of Directors may adopt hurricane shutter specifications for the buildings, which shall include color, style, and other factors deemed relevant by the Board. All specifications adopted by the Board shall comply with applicable building code and the specifications set forth in the Declaration. The Board shall not refuse to approve the installation or replacement of hurricane shutters conforming to the specifications set forth in the Declaration. The Board may, subject to the provisions of Section 718.3026, Florida Statutes, and the approval of a majority of Voting Interests of the Condominium, install hurricane shutters, hurricane protection, impact glass (whether on doors or windows) or other code-compliant doors, windows or glass, that complies with or exceeds the applicable building code. However, a vote of the Owners is not required if the maintenance, repair, and replacement of hurricane shutters, impact glass, or code-compliant doors or windows are the responsibility of the Association pursuant to the Declaration of Condominium. If hurricane protection or laminated glass or window film architecturally designed to function as hurricane protection, which complies with or exceeds the current applicable building code, has been previously installed, the Board may not install hurricane shutters, hurricane protection, or impact glass or other code-compliant windows or doors except upon approval by a majority vote of the Voting Interests of the Condominium. Shutters shall be maintained in good repair and operating order.

4.18.18 To borrow money to pay for the Association's maintenance, repair and replacement obligations.

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

4.19.1 In anticipation of or during any emergency defined in Section 4.19.6 below, the Board of Directors of the Association may:

(a) Name as assistant officers persons who are not Board members, which assistant officers shall have the same authority as the executive officers to whom they are assistant, during the period of the emergency, to accommodate the incapacity or unavailability of any officer of the Association; and

(b) Relocate the principal officer or designate alternative principal offices or authorize the officers to do so.

4.19.2 During an emergency defined in Section 4.19.6 below:

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- (a) Notice of a meeting of the Board of Directors need be given only to those Directors whom it is practicable to reach and may be given in any practicable manner, including by publication and radio;
  - (b) The Director or Directors in attendance at a meeting shall constitute a quorum.
- 4.19.3 Corporate action taken in good faith during an emergency under this Section to further the ordinary affairs of the Association:
- (a) Binds the Association; and
  - (b) Shall have the presumption of being reasonable and necessary.
- 4.19.4 An officer, director or employee of the Association acting in accordance with any emergency By-Laws is only liable for willful misconduct.
- 4.19.5 The provisions of these emergency By-Laws shall supersede any inconsistent or contrary provisions of the By-Laws for the period of emergency.
- 4.19.6 An emergency exists for purposes of this Section if a quorum of the Association's Directors cannot readily be assembled because of some catastrophic event.

4.20 To Convey to Condemning Authorities. To convey a portion of the common elements to a condemning authority for the purpose of providing utility easements, right of way expansion, or other public purposes, whether negotiated or as the result of eminent domain proceedings.

4.21 Certified Public Accountant. To retain the services of a Certified Public Accountant.

5. **OFFICERS.**

5.1 Officers and Elections. The executive officers of the Association shall be a President and Vice President, who must be directors, and Secretary and Treasurer, who do not have to, but may, be directors. All officers shall be elected annually by the Board of Directors. Persons who are solely officers, and not directors, are not entitled to any vote on the Board by virtue of their election as an officer. Any officer may be removed with or without cause by a majority vote of the Board of Directors. Any person, except the President, may hold two or more offices. The Board may, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. The Board of Directors may delegate powers of removal of subordinate officers to any officer. If the Board so determines, there may be more than one Vice President. An officer more than ninety (90) days delinquent in the payment of regular Assessments shall be deemed to have abandoned the office, creating a vacancy to be filled according to law.

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

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

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

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

5.6 Employee Compensation. The compensation of all employees of the Association shall be fixed by the Directors.

5.7 Indemnification. Every Director and every officer and committee member of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees through all trial and appellate levels, reasonably incurred by or imposed in connection with any proceeding, arbitration, or settlement to which such person may be a party, or in which they may become involved, by reason of being or having been a Director, officer, or committee member of the Association. Notwithstanding the foregoing, in the event of a voluntary settlement, the indemnification provisions herein shall not be automatic and shall apply only when the Board approves such settlement. Notwithstanding anything contained herein to the contrary, in instances where the Director, officer, or committee member admits or is adjudged guilty of willful malfeasance, misfeasance or nonfeasance in the performance of their duties, the indemnification provisions contained herein shall not apply. Otherwise, the foregoing right of indemnification shall be in addition to and not exclusive of any and all

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rights of indemnification to which such Director, officer or committee member may be entitled by common law or statute.

5.8 Delegation. To the extent permitted by law, the powers and duties of the directors and officers may be delegated for the purpose of management.

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

6.1 Depository. The Association shall maintain its operational funds in such financial institutions as authorized to do business in the State of Florida as shall be designated from time to time by the Board. The Board shall be authorized to use its business judgment in investing reserve funds of the Association. Withdrawal of monies from all accounts shall be only by such persons as are authorized by the Board. The Board, or its designee, may invest Association funds in the following: interest-bearing accounts; money market funds primarily invested in U.S. government securities; certificates of deposit; U.S. Government securities; FDIC backed investments; and other similar investment vehicles.

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

6.2.1 Member Rejection of Budget. If an annual budget adopted by the Board of Directors requires an Assessment against the Unit Owners in any fiscal year exceeding one hundred fifteen percent (115%) of the Assessment for the previous fiscal year, the Board shall conduct a special members' meeting to consider a substitute budget if the Board receives, within twenty-one (21) days after adoption of the annual budget, a written request for a special members' meeting from at least ten percent (10%) of the Voting Interests. The special meeting shall be conducted within sixty (60) days after adoption of the annual budget. At least fourteen (14) days prior to such special meeting, the Board shall provide each Unit Owner a notice of the meeting. Unit Owners may consider and adopt a substitute budget at the special meeting. A substitute budget is adopted if approved by a majority of the Voting Interests. If there is not a quorum at the special meeting or a substitute budget is not adopted, the annual budget previously adopted by the Board shall take effect as scheduled. Provisions for reasonable reserves for repair or replacement, nonrecurring expenses and Assessments for betterments shall be excluded from the computation in determining whether Assessments exceed one hundred fifteen percent (115%) of similar Assessments in the previous fiscal year.

6.3 Statutory Reserves for Capital Expenditures and Deferred Maintenance. In addition to annual operating expenses, each proposed budget must include reserve accounts for capital expenditures and deferred maintenance as required by Section 718.112(2)(f) of the Condominium Act. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance or replacement cost, and for any other item for which

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the deferred maintenance expense or replacement cost exceeds \$10,000, or as otherwise required by amendments to Florida Statutes Chapter 718. The amount to be reserved shall be computed by a formula based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The Association may adjust replacement reserve Assessments annually to take into account any changes in estimates or extensions of the useful life of a reserve item caused by deferred maintenance. Those reserves shall be funded unless the members determine by a majority vote at a duly called meeting of the members, to fund no reserves or less reserves than required by Section 718.112(2)(f) of the Condominium Act. The Board of Directors may schedule its budget meeting to occur immediately after the adjournment of a membership meeting held for purposes of voting on reserve funding for the subsequent fiscal year. Reserves funded under this Section 6.3, and all interest earned on such reserves, shall not be commingled with operating funds (unless combined for investment purposes), and shall be used only for the purposes for which they were reserved, unless their use for other purposes is approved in advance by a majority vote at a members' meeting called for that purpose. Operating and reserve funds may be invested in combined accounts, but such funds shall be accounted for separately, and the combined account balance may not, at any time, be less than the amount identified as reserve funds. Operating and reserve funds may be combined in the quarterly Assessment paid by Owners.

6.4 Contingency Funds. In addition to the statutory reserves provided in Section 6.3 above, or in place of them if the members so vote, the Board may establish one or more "contingency funds" for contingencies and operating expenses for each Condominium and for the Association. The purpose of these contingency funds is to provide financial stability and to avoid the need for Special Assessments on a frequent basis. The amounts proposed to be so reserved shall be shown in the proposed annual budget as a line item in the operating portion of the budget.

6.5 Assessments. Regular annual Assessments based on the adopted budget shall be paid either monthly or quarterly, as determined by the Board. Failure to send or receive notice of Assessments shall not excuse the obligation to pay. If an annual budget has not been adopted at the time the first installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the last installment and shall be continued at such rate until a budget is adopted and pro rata Assessments are calculated, at which time any overage or shortage shall be added or subtracted from each Unit's next due installment.

6.6 Special Assessments. Special Assessments may be imposed by the Board of Directors when necessary to meet unusual, unexpected, unbudgeted, or non-recurring expenses. Special Assessments are due on the day specified in the resolution of the Board approving such Assessments. Written notice of any Board meeting at which a non-emergency special or regular Assessment, will be considered, must be mailed, hand-delivered, or electronically transmitted (in the latter case, to those Unit Owners who have so consented) to all Owners and posted conspicuously on the Condominium Property at least fourteen (14) days in advance, which notice shall state that Assessments will be considered and provide the nature, estimated cost and description of the purposes for such Assessments. The notice to Owners that any special Assessment has been levied must contain a statement of the purpose(s) of the Assessment, and the funds collected must be spent for the stated purpose(s). If any funds remain upon completion of the purpose(s) such excess funds may, at the discretion of the Board, either be returned to the Owners or applied as a credit towards future Assessments. The total of all special assessments coming due in any fiscal year shall not exceed fifteen percent (15%) of the total annual budget for that year, including reserves, unless a majority of the voting interests first consent. Notwithstanding the

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above, if a special assessment is needed to fund necessary repairs or replacement to the Condominium Property or to pay for costs incurred in response to an event for which a State of Emergency is declared in Lee County, no Owner vote for approval of the special assessment shall be required.

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

6.8 Financial Statement or Report. Within ninety (90) days after the end of the fiscal year, the Association shall prepare and complete, or cause to be prepared and completed by a third party the financial statement or report required by the Condominium Act, as amended from time to time. Within twenty-one (21) days after that statement or report is completed or received from the third party, the Association shall mail or hand deliver to each Owner a copy of the most recent financial statement or report, as required by the Condominium Act, or a notice that a copy of the most recent financial statement or report, will be mailed or hand delivered to the Owner, without charge, within five (5) business days after receipt of a written request from the Owner.

6.9 Fiscal Year. The fiscal year shall be the calendar year, unless modified by the Board of Directors in accordance with IRS regulations.

7. RULES AND REGULATIONS: USE RESTRICTIONS. The Board of Directors may, from time to time, adopt and amend administrative Rules and Regulations governing the operation of the Association and the use of the Common Elements, the Condominium Property including Units, and the Association Property including all common areas of the community subject to any limits contained in the Declaration of Condominium and/or the Master Declaration. Any Rules and Regulations created and imposed by the Board must be rationally related to a legitimate Association purpose. The Rules and Regulations may not conflict with the rights of Owners as provided in the Declaration or Master Declaration as applicable to the common area or reasonably inferable therefrom. Rules and Regulations regarding Unit use shall be adopted by the Board of Directors as set forth in Section 4.9 hereof. Rules and Regulations or amendments thereto may, but need not be, recorded in the Public Records of Lee County, Florida, irrespective of any prior recording of Rules and Regulations of the Association.

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

8.1 Fines and Suspension of Use Rights. The Board of Directors may levy reasonable fines against Units and suspend the common element/ association property use rights of individuals where the Owners commit violations of the Condominium Act, the provisions of the Condominium Documents, or condone such violations by their family members, guests or lessees. No fine may become a lien against a Unit, however, the Board may proceed with a court action to obtain a judgment for any fine amount not paid. No fine may exceed \$100 per violation or the maximum allowed by law. However, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing.

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provided that no fine shall in the aggregate exceed \$1,000, unless allowed by law. The procedure for imposing such fines shall be as follows:

(A) The party against whom the fine or suspension is sought to be levied shall be afforded an opportunity for hearing before a committee of at least three members, 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 Board must first provide the party against whom the fine or suspension is sought to be levied reasonable notice of not less than fourteen (14) days, and the notice shall include:

- (1) A statement of the date, time and place of the hearing;
- (2) A statement of the provisions of the Condominium Documents which have allegedly been violated;
- (3) A short and plain statement of the matters asserted by the Association; and
- (4) The amount of any proposed fine.

(B) The party against whom the fine or suspension may be levied shall have a reasonable 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. The Owner shall be the party ultimately responsible for payment of a fine, regardless of whether the fine relates to conduct by a tenant, family member, invitee or guest. If the committee does not agree with the fine, the fine may not be levied.

(C) If the proposed fine or suspension is approved by the committee, the fine payment is due five (5) days after the date of the committee meeting at which the fine is approved. The Association must provide written notice of such fine or suspension by mail or hand delivery to the Unit Owner, and if applicable, any tenant, family member, invitee or guest.

(D) Exceptions to Hearing and Notice Requirements. The notice and hearing requirements of this Section 8.1 do not apply to the imposition of suspensions or fines against a Unit Owner or Occupant because of failing to pay any amounts due the Association. If such a fine or suspension is imposed, the Association must levy the fine or impose a reasonable suspension at a properly noticed Board meeting, and after the imposition of such fine or suspension, the Association must notify the Unit Owner and, if applicable, the Units Occupant, licensee or invitee by mail or hand delivery.

(E) Payment of Penalties. Fines shall be paid not later than five (5) days after notice of the imposition of same.

(F) Remedy. For non-payment of fines, the Association shall have all of the remedies allowed by law and shall be entitled to recover attorneys fees, costs and pre and post-judgment interest in the amount of 18% calculated from the due date in any action for collection of such fines.

(G) Non-Exclusive Remedy. The fines provided for herein shall not be construed to be an exclusive remedy of the Association, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; however, any penalty paid by the offending Unit

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Owner shall be deducted from or offset against any damage which the Association may otherwise be entitled to recover by law.

8.2 Mandatory Non-Binding Arbitration. In the event of any "dispute", as defined in Section 718.1255 Florida Statutes, between an Owner and the Association, the parties must submit the dispute to mandatory non-binding arbitration under the rules of the Division prior to filing suit in Lee County over the disputed matters.

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

8.4 Correction of Health and Safety Hazards. Any violations of federal, state or local laws, codes, ordinances or regulations, which are deemed by the Board of Directors to be a hazard to the public health or safety, may be corrected immediately as an emergency matter by the Association and the cost thereof shall be charged to the Unit Owner responsible for the hazard.

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

9.1 Proposal. Amendments to these Bylaws may be proposed by the President of the Association, a majority of the Board of Directors or by one-fourth (1/4<sup>th</sup>) of the Voting Interest of the Association.

9.2 Procedure. Upon any amendment being proposed as provided above, the proposed amendment shall be submitted to a vote of the members not later than the next annual meeting for which proper notice can still be given. The text of the proposed amendment shall accompany the notice of meeting or the notice that a vote will occur by written consents in lieu of a meeting. A proposed amendment shall contain the full text of the language with proposed new words in the text underlined and words to be deleted lined through with hyphens, unless the proposed change is so extensive that this procedure would hinder rather than assist the understanding of the proposed amendment. In the latter case, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Bylaws. See Bylaws, Section \_\_\_ for present text."

9.3 Vote Required. Except as otherwise provided by law, or by specific provision of these Bylaws, a proposed amendment is adopted if it is approved by at least a majority of the Voting Interests of the Association present in person or by proxy and voting at any annual or special meeting called for the purpose, but in no event shall the approval be by less than twenty-three (23) Voting Interests (the vote attributable to 23 Units). A proposed amendment may also be approved by written consent of the Owners by written consents in lieu of a meeting in the same percentage as required to approve an amendment at a meeting. The Bylaws shall be deemed amended by virtue of revisions to laws, regulations and statutes which control over conflicting provisions of the Bylaws. The Board of Directors shall have the authority to amend the Bylaws in order to conform to the provisions thereof with such

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revisions to laws, regulations and statutes. In addition, the Board of Directors may amend the Bylaws to correct author's errors or omissions, and amend and restate the Bylaws in order to consolidate into one document amendments previously adopted by the members or the Board. Amendments adopted by the Board shall occur at a duly noticed Board meeting (with adoption of the amendments set forth on the agenda).

9.4 Certificate; Recording. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Bylaws, which certificate shall be in the form required by law and shall be executed by the President or Vice President with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Lee County, Florida.

10. OFFICIAL RECORDS.

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

10.2 Access to Official Records. The Association's official records are open to inspection by any member or the authorized representative of such member at all reasonable times within ten (10) working days after receipt of a written request by the Board or its designee. The Association may comply with this requirement by having a copy of the official records available for inspection or copying on the Condominium Property or Association Property if the original official records are maintained elsewhere in Lee County or the State of Florida. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the member. A renter of a unit has a right to inspect and copy the Association's bylaws and rules. The Board may adopt reasonable rules regarding the frequency, time, location, notice and manner of record inspections and copying. The Association shall maintain on the Condominium Property, the Association Property or with the Association's manager an adequate number of copies of the Condominium Documents, as well as the question and answer sheet described in Section 718.504 and year-end financial information required by Section 718.112 of the Condominium Act to ensure their availability to Unit Owners and prospective purchasers. The Association may charge its actual costs for preparing and furnishing these documents to those requesting the same. An Association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association's providing the member or his or her authorized representative with a copy of such records. The Association may not charge a member or his or her authorized representative for the use of a portable device.

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

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

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exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings until the conclusion of the litigation or adversarial administrative proceedings.

- (B) Information obtained by the Association in connection with the approval of the lease, sale or other transfer of a Unit.
- (C) Personnel records of association or management company employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this sub-paragraph, the term "personnel records" does not include written employment agreements with an Association employee or management company, or budgetary or financial records that indicate the compensation paid to an Association employee.
- (D) Medical records of Unit Owners.
- (E) Social Security numbers, driver's license numbers, credit card numbers, email addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the Association's notice requirements, and other personal identifying information of any person, excluding the person's name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the Association to fulfill the Association's notice requirements. Notwithstanding the restrictions in this subparagraph, an Association may print and distribute to parcel owners a directory containing the name, parcel address, and all telephone numbers of each parcel owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the Association. An owner may consent in writing to the disclosure of other contact information described in this subsection. The Association is not liable for the inadvertent disclosure of information that is protected under this subparagraph if the information is included in an official record of the Association and is voluntarily provided by an owner and not requested by the Association.
- (F) Any electronic security measure that is used by the Association to safeguard data, including passwords.
- (G) The software and operating system used by the Association which allows manipulation of data, even if the Unit Owner owns a copy of the same software used by the Association. The data is part of the official records of the Association.

10.4 Owner Inquiry. When a Unit Owner files a written inquiry by certified mail with the Board, the Board shall respond in writing to the Unit Owner within thirty (30) days of its receipt of the inquiry. The Board's response shall either give a substantive response to the Owner, notify the Owner that a legal opinion has been requested, or notify the Owner that advice has been requested from the Division of Florida Land Sales. If the Board requests advice from the Division, the Board shall, within

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ten (10) days of its receipt of the advice, provide in writing a substantive response to the Owner. If a legal opinion is requested, the Board shall, within sixty (60) days after the receipt of the inquiry, provide in writing a substantive response to the inquiry. The Association may adopt reasonable rules and regulations regarding the frequency and manner of responding to Unit Owner inquiries, one of which may be that the association is only obligated to respond to one written inquiry per unit in any given thirty (30) day period. In such a case, any additional inquiry or inquiries must be responded to in the subsequent thirty (30) day period, or periods, as applicable.

10.5 Relinquishing Official Records. An outgoing board or committee member must relinquish all official records and property of the association in his or her possession or under his or her control to the incoming board within five (5) days after the election. A board or committee member who willfully and knowingly fails to relinquish the records and property may be subject to a civil penalty imposed by the Division pursuant to the Condominium Act.

## 11. VOTING IN WATERSIDE MASTER ASSOCIATION AND ESTERO BAY IMPROVEMENT ASSOCIATION (EBIA).

In accordance with the terms of the Estero Bay Improvement Association, Inc., the Waterside III Condominium Association, Inc., is required to maintain and pay assessments when levied, to EBIA, Inc. In accordance with the terms of the governing documents, the Board of Directors of Waterside III Condominium Association, Inc. shall appoint and designate in writing to the EBIA at least annually by January 1st of each year, the name and address of the person that will serve as Waterside III's voting representative for that calendar year. The voting representative's duties and responsibilities shall be as set forth in the Bylaws for EBIA. The voting representative shall carry out those duties and responsibilities in accordance with directions received from the Board of Directors of the Waterside III Condominium Association, Inc., except that, to the extent that individual members within the Waterside III community are entitled to vote, then it will be the responsibility of the voting representative to record the votes of the individual members within Waterside III and cast all votes of its members with the EBIA. The voting representative, as designated by the Board, may provide for the votes of the individual members to be cast in a block, or in the same manner as originally cast by its members, or in any other manner provided that it is fair, equitable and uniformly applied within the Waterside III Association, as long as it does not result in a cast of fractional votes. Individual Unit Owner members within Waterside III are also required to be members of the Waterside Master Association, Inc. (WMA). Each Unit Owner has one vote according to the WMA documents and may cast his or her vote accordingly at any WMA meeting or member vote as allowed.

## 12. MISCELLANEOUS.

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

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

12.3 Conflict. If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration of Condominium or Articles of Incorporation, the

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provisions of the Declaration and of the Articles of Incorporation shall prevail over the provisions of these Bylaws.

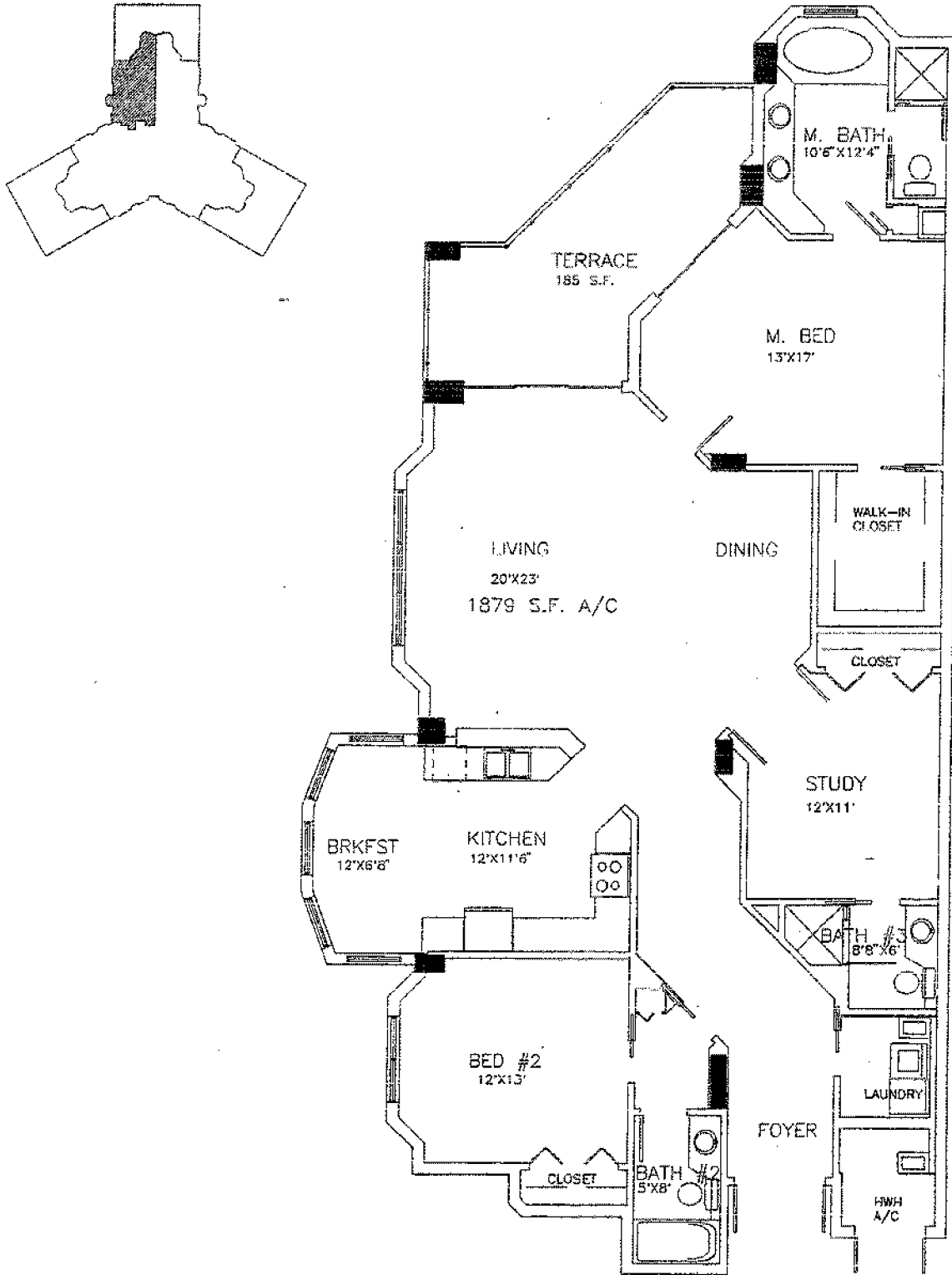
12.4 Certificate of Compliance. In accordance with Section 718.112(2)(l) of the Condominium Act, a Certificate of Compliance from a licensed electrical contractor or electrician may be accepted by the Board as evidence of compliance of the Units to the applicable fire and life safety code.

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RESIDENCE TYPE 313 (TIDE WATER)  
2 BEDROOM/ STUDY/3 BATH

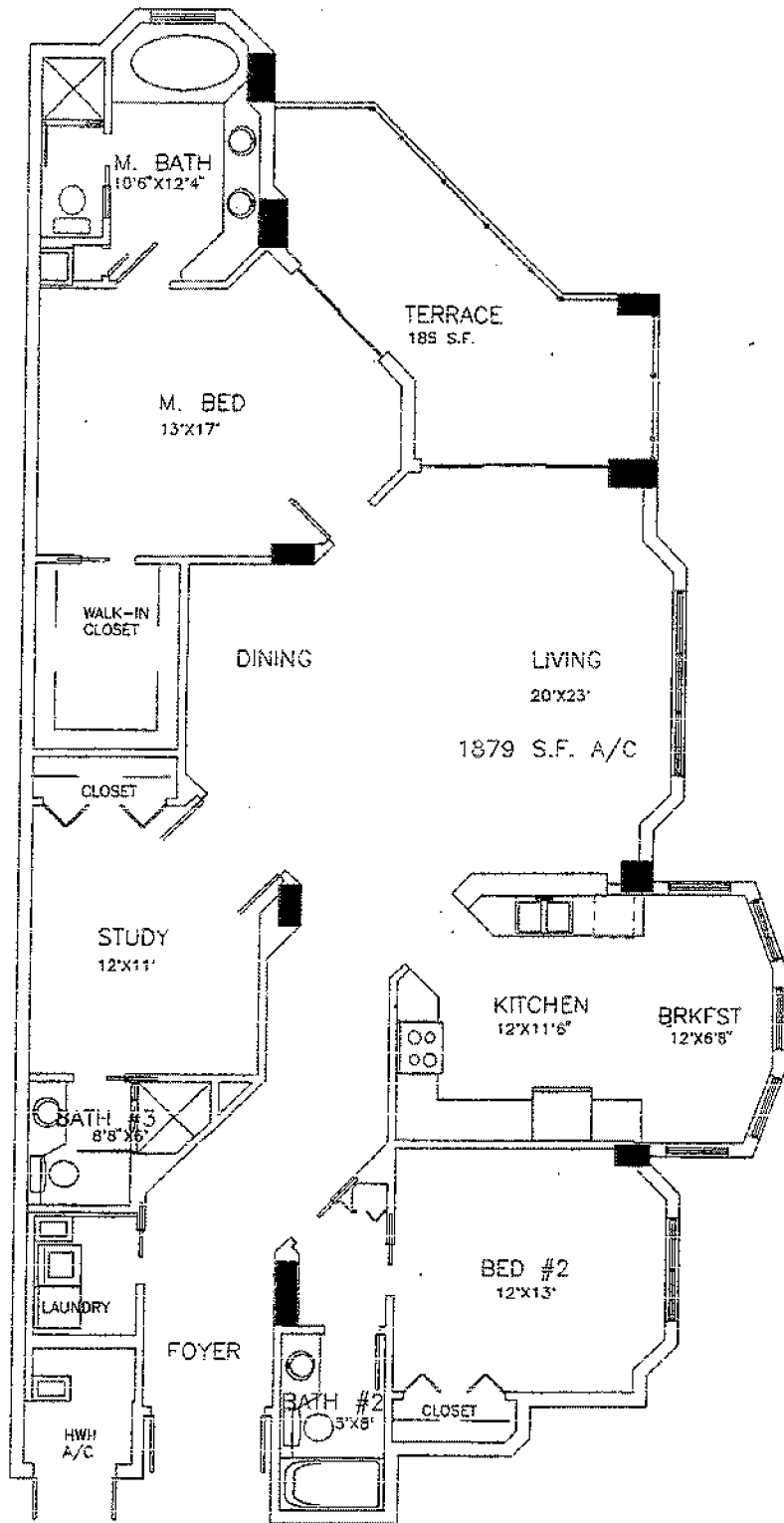
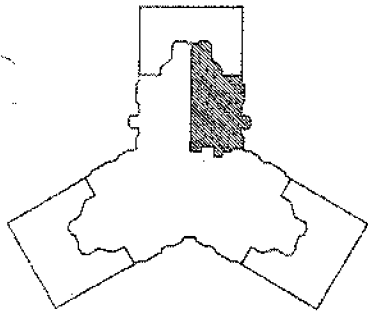


Information contained herein is preliminary and subject to revision at the discretion of the developers and planners.

WATERSIDE III  
A PRIVATE CONDOMINIUM COMMUNITY AT BAY BEACH  
FORT MYERS BEACH  
FLORIDA

WALTER L. KELLER & ASSOC.  
ARCHITECTS

SHEET	TITLE	NO.	DATE	BY	CHKD.	DATE
	REVISION					
						OF



RESIDENCE TYPE 314 (TIDE WATER)  
2 BEDROOM/ STUDY/3 BATH



Information contained herein is preliminary and subject to revision at the discretion of the developers and planners.

**WATERSIDE III**  
A PRIVATE CONDOMINIUM COMMUNITY AT BAY BEACH  
FORT MYERS BEACH  
FLORIDA

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WALTER L. KELLER & ASSOC.  
**ARCHITECTS**

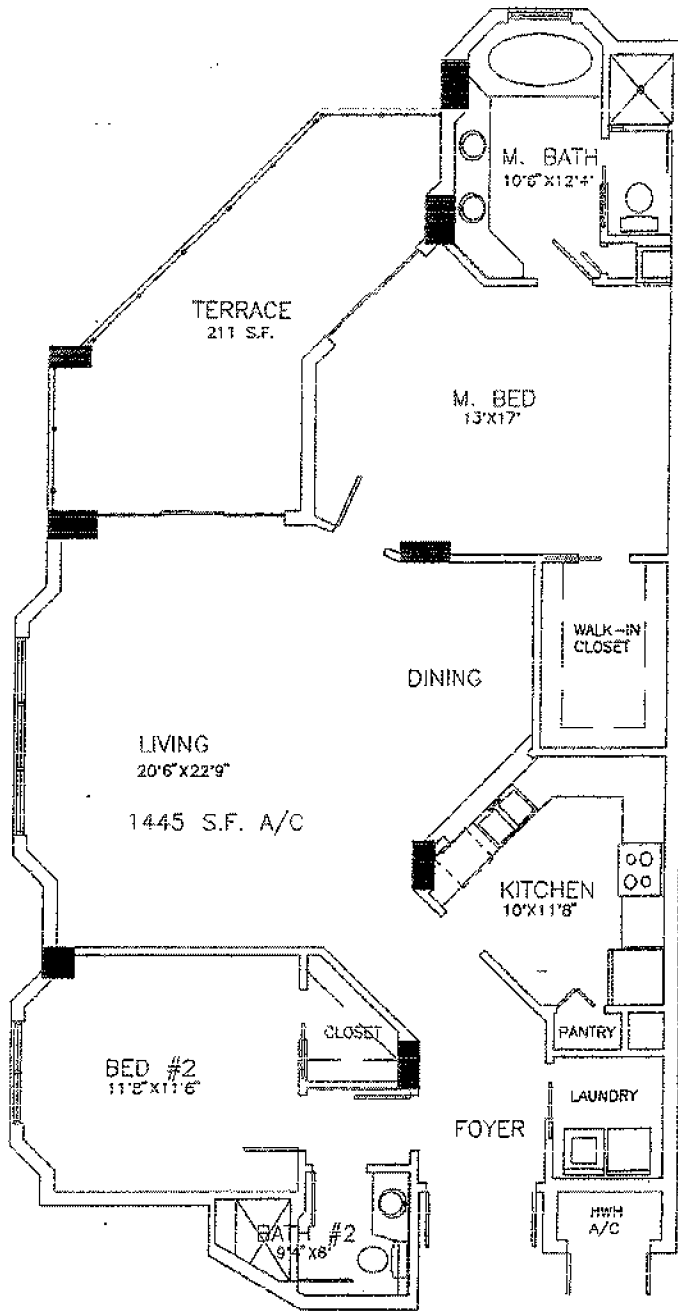
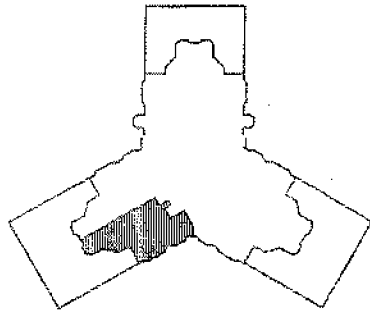
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**TITLE** \_\_\_\_\_

**REVISION** \_\_\_\_\_

**SHEET** \_\_\_\_\_ **OF** \_\_\_\_\_



RESIDENCE TYPE 1  
 2 BEDROOM / 2 BATH  
 (CHANNEL MARK)



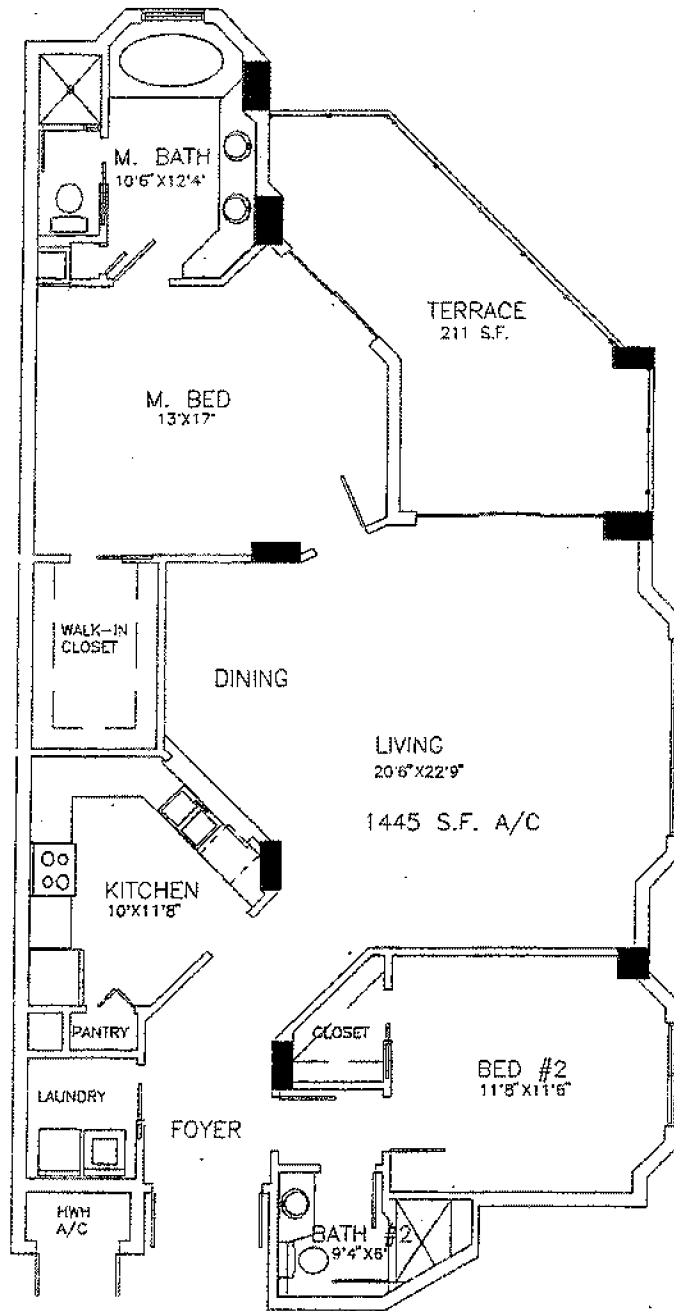
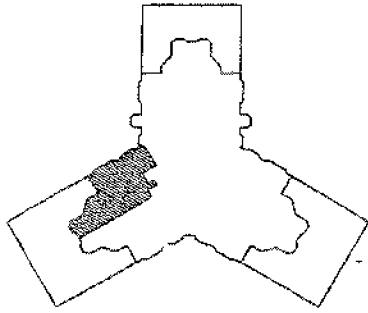
Information contained herein is preliminary and subject to revision at the discretion of the developers and planners.

**WATERSIDE II**  
 A PRIVATE CONDOMINIUM COMMUNITY AT BAY BEACH  
 FORT MYERS BEACH, FLORIDA

**WALTER L. KELLER & ASSOC.**  
**ARCHITECTS**

NO.	DATE	DESCRIPTION	BY	CHKD.	DATE	TOTAL

**SHEET** \_\_\_\_\_ **OF** \_\_\_\_\_



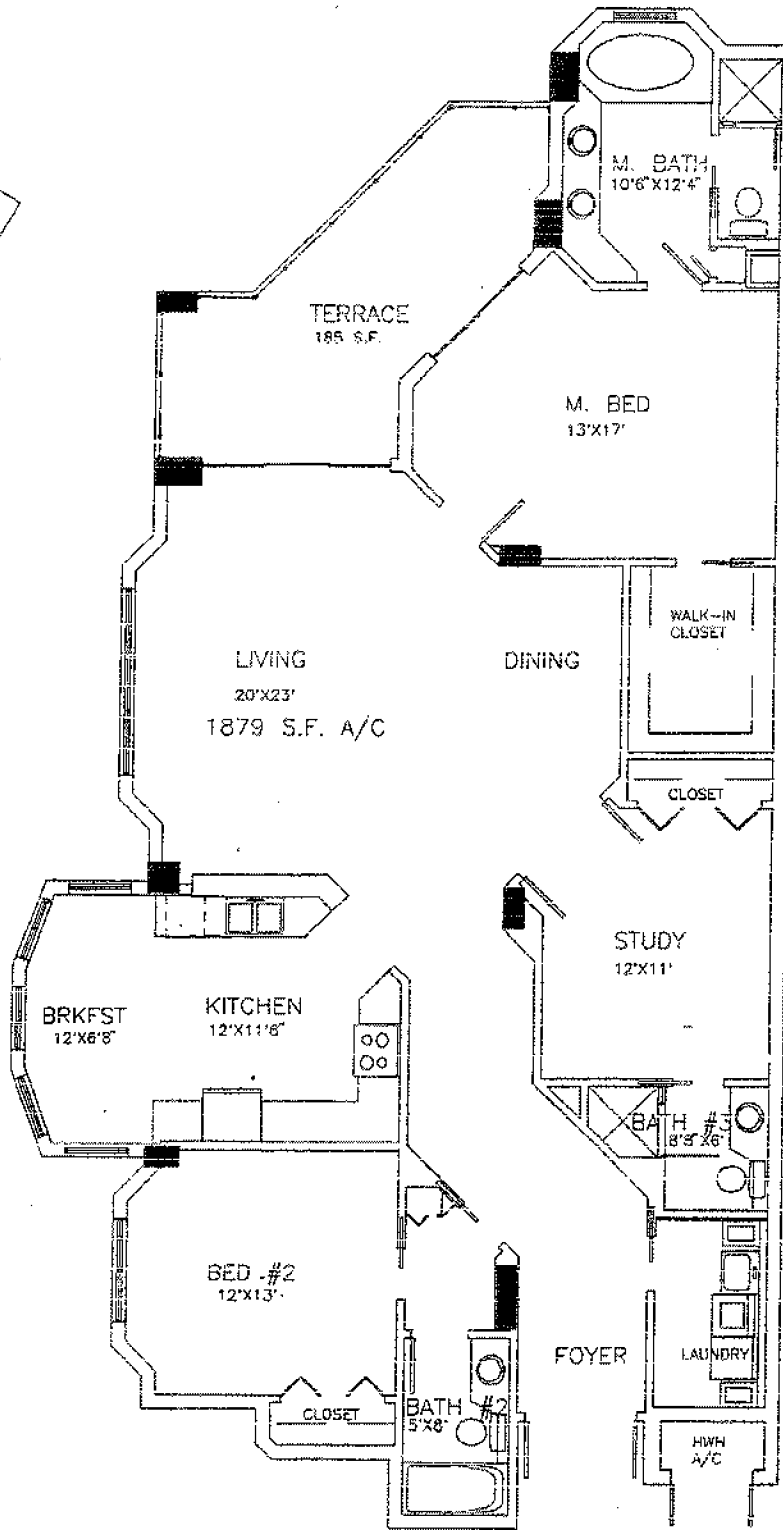
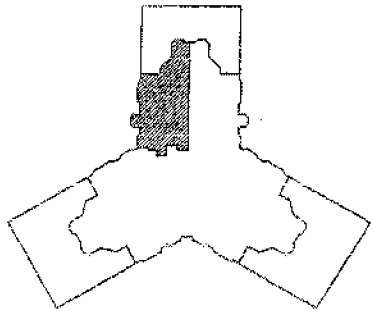
RESIDENCE TYPE 2  
 2 BEDROOM/ 2 BATH  
 (CHANNEL MARK)



Information contained herein is preliminary and subject to revision at the discretion of the developers and planners.

<p><b>WATERSIDE III</b>                  A PRIVATE CONDOMINIUM COMMUNITY AT BAY BEACH                  FORT MYERS BEACH FLORIDA</p>	
<p>WALTER L. KELLER &amp; ASSOC.                  ARCHITECTS                  LICENSE # 13034                  SCALE: 1/8" = 1'-0" (AS SHOWN)</p>	<p>DATE: 11/11/19                  DRAWN BY: [ ]                  CHECKED BY: [ ]                  TITLE: [ ]</p>
<p>REVISION: [ ]</p>	<p>DATE: [ ]                  DRAWN BY: [ ]                  CHECKED BY: [ ]                  TITLE: [ ]</p>
<p>SHEET [ ]</p>	<p>OF [ ]</p>





RESIDENCE TYPE 3  
2 BEDROOM/ STUDY/3 BATH  
(TIDE WATER)



Information contained herein is preliminary and subject to revision at the discretion of the developers and planners.

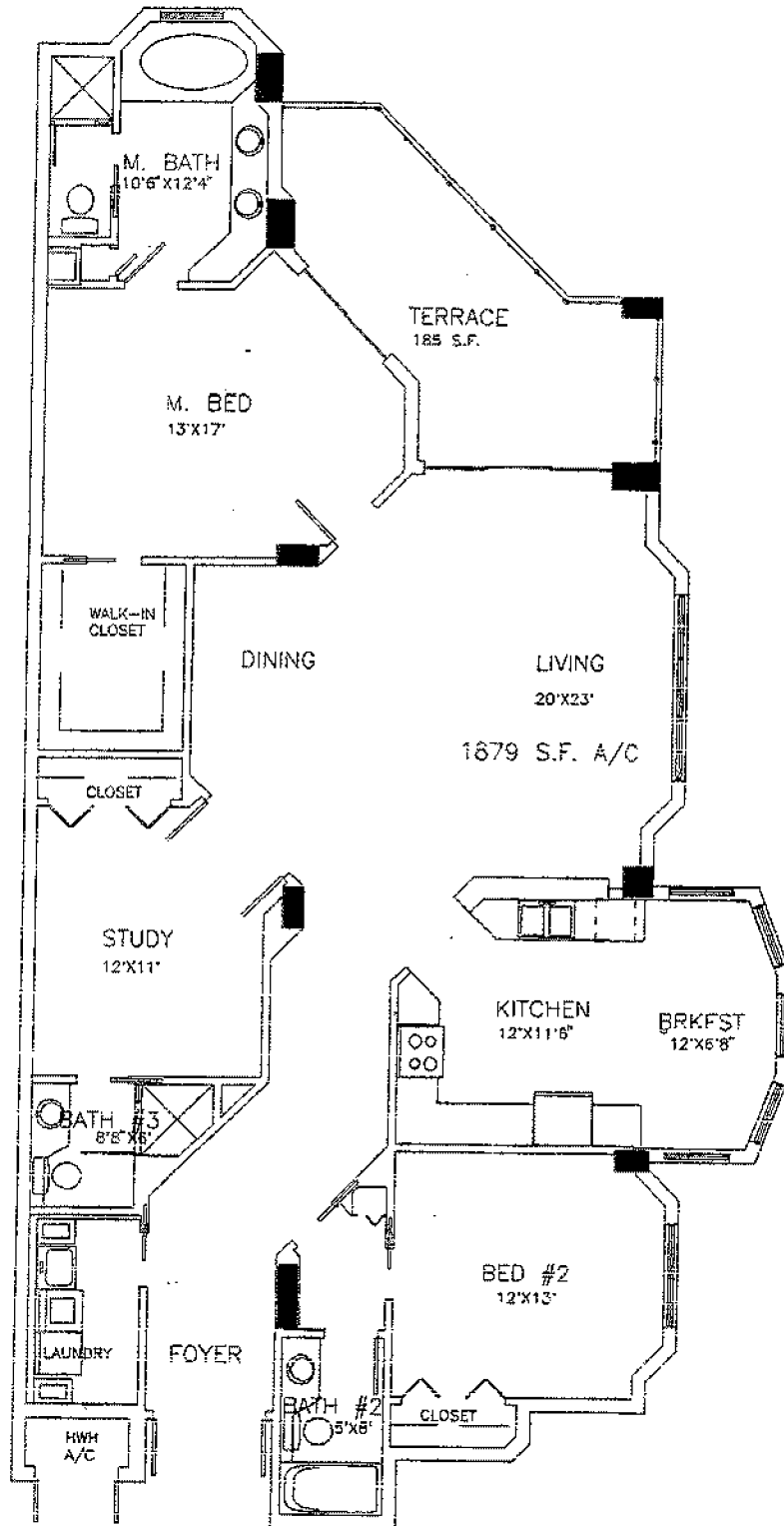
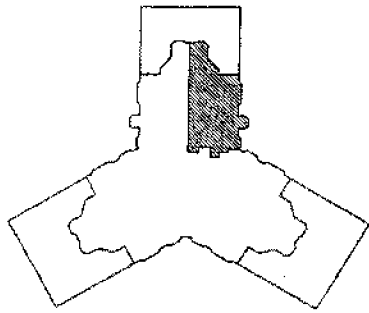
FLORIDA

**WATERSIDE III**  
A PRIVATE CONDOMINIUM COMMUNITY AT BAY BEACH  
FORT MYERS BEACH

**WALTER L. KELLER & ASSOC.**  
**ARCHITECTS**

DATE	SCALE	REVISION	BY	DATE

**SHEET** \_\_\_\_\_ **OF** \_\_\_\_\_



RESIDENCE TYPE 4  
2 BEDROOM/ STUDY/3 BATH  
(TIDE WATER)



Information contained herein is preliminary and subject to revision at the discretion of the developers and planners.

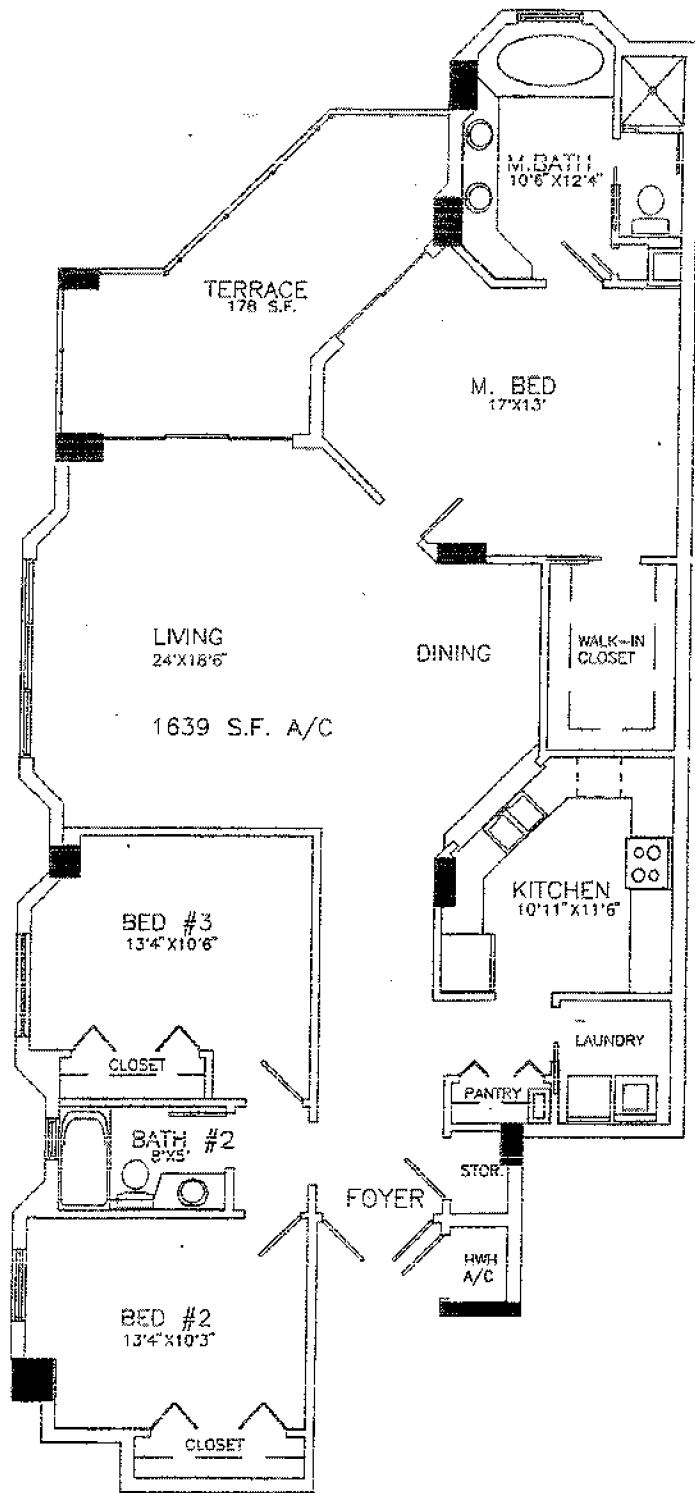
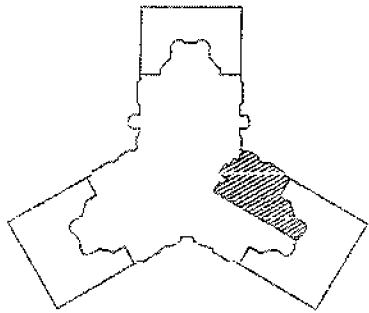
**WATERSIDE III**  
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FORT MYERS BEACH, FLORIDA

WALTER L. KELLER & ASSOC.  
**ARCHITECTS**

DATE	BY	CHECKED	DATE

TITLE: \_\_\_\_\_  
REVISION: \_\_\_\_\_

**SHEET** \_\_\_\_\_ **OF** \_\_\_\_\_



RESIDENCE TYPE 5  
 3 BEDROOM/ 2 BATH  
 (GULF MIST)



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FLORIDA

**WATERSIDE III**  
 A PRIVATE CONDOMINIUM COMMUNITY AT BAY BEACH  
 FORT MYERS BEACH

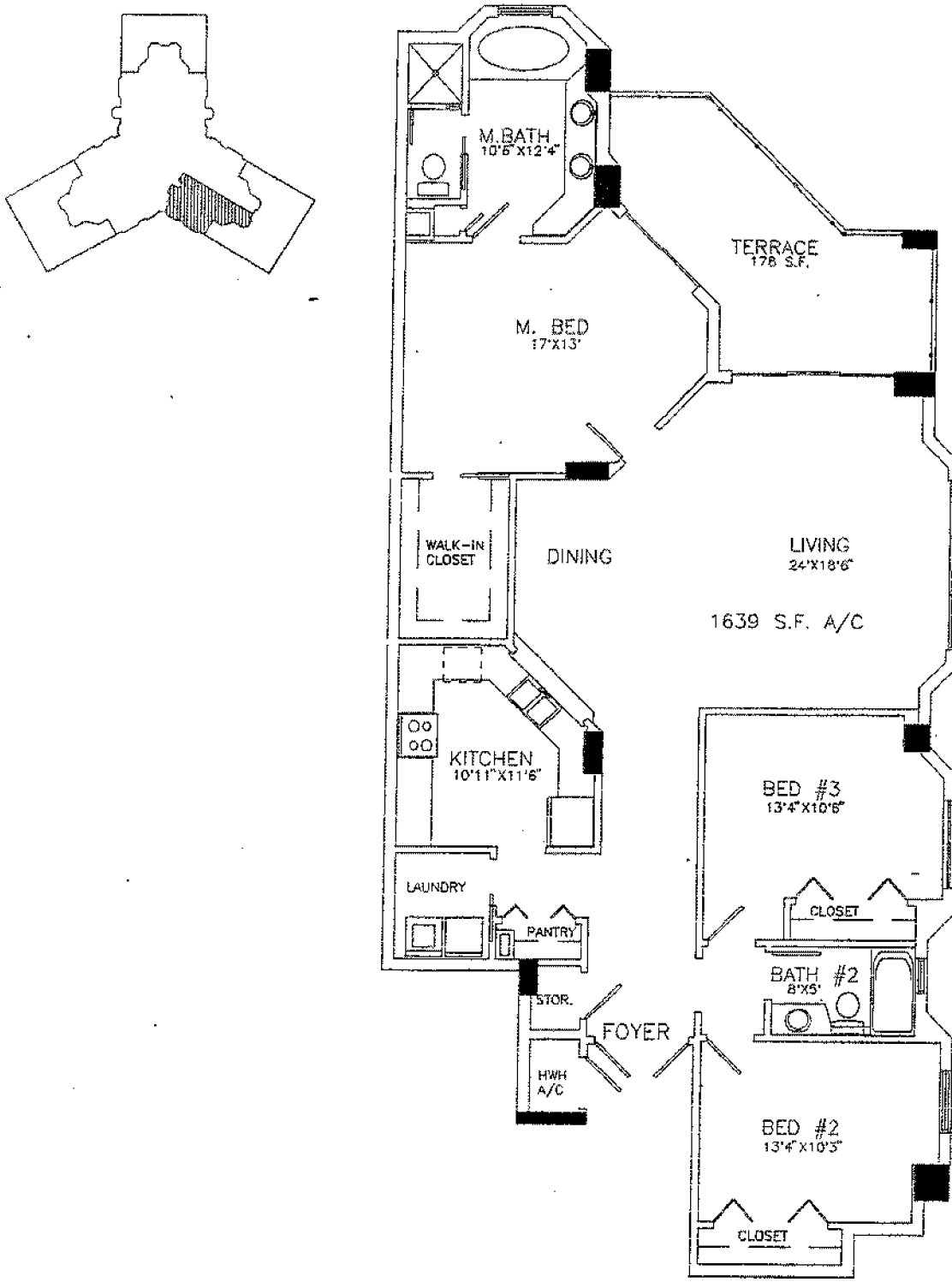
WALTER L. REJELER & ASSOC.  
**ARCHITECTS**

NO.	DATE	BY	CHKD.	DATE	REVISION

TITLE: \_\_\_\_\_

REVISION: \_\_\_\_\_

SHEET \_\_\_\_\_ OF \_\_\_\_\_



RESIDENCE TYPE 6  
 3 BEDROOM / 2 BATH  
 (GULF MLST)



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**WATERSIDE III**  
 A PRIVATE CONDOMINIUM COMMUNITY AT BAY BEACH  
 FORT MYERS BEACH  
 FLORIDA

**KALTER L. KELLER & ASSOC.**  
**ARCHITECTS**

TITLE	DATE	BY	CHKD BY
REVISION			

**SHEET** \_\_\_\_\_ **OF** \_\_\_\_\_