

Prepared by:  
Susan M. McLaughlin, Esq.  
CONDO & HOA LAW GROUP, PLLC  
2030 McGregor Boulevard  
Fort Myers, FL 33901  
239-333-2992

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DWIGHT E. BROCK, CLERK OF THE CIRCUIT COURT  
COLLIER COUNTY FLORIDA  
REC \$460.50

**CERTIFICATE OF AMENDMENT FOR  
CHATEAUMERE CONDOMINIUM ASSOCIATION, INC.**

THE UNDERSIGNED, being the President and Secretary of CHATEAUMERE CONDOMINIUM ASSOCIATION, INC., a Florida non-profit corporation, do hereby certify that the attached Second Amended and Restated Declaration of Condominium, Second Amended and Restated Articles of Incorporation, and Second Amended and Restated Bylaws were duly approved, adopted, and enacted by the affirmative vote of the proper percentage of the voting interests in the Association at a Special Members Meeting called for that purpose and held on March 23, 2012, at which a quorum was present and for which due notice was given.

The original Declaration of Condominium of Chateaumere, a Condominium, was recorded on December 9, 1980, in Official Records Book 895, Page 409, *et seq.*; and the first Amended and Restated Declaration of Condominium was recorded on April 22, 1992, in Official Records Book 1707, Page 2132, *et seq.* The original Articles of Incorporation were amended and restated and recorded as an Exhibit to the Amended and Restated Declaration of Condominium of Chateaumere recorded on April 22, 1992, in Official Records Book 1707, Page 2132, *et seq.* The original Bylaws were amended and restated and recorded as an Exhibit to the Amended and Restated Declaration of Condominium of Chateaumere, a Condominium, recorded on April 22, 1992, all in of the Public Records of Collier County, Florida.

Dated this 3<sup>rd</sup> day of April, 2012.

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DECLARATION OF AMENDMENT FOR  
GREATER CHERRYWOOD ASSOCIATION, INC.

THE UNDERSIGNED, being the President and Secretary of GREATER CHERRYWOOD ASSOCIATION, INC., a Florida non-profit corporation, do hereby certify

that the attached Second Amended and Restated Declaration of Condominium, Second Amended and Restated Articles of Incorporation, and Second Amended and Restated Bylaws were duly approved, adopted and entered by the affirmative vote of the proper percentage of the voting interest in the Association at a Special Members Meeting called for that purpose and held on March 23, 2012, in which a quorum was present and for which due notice was given.

The original Declaration of Condominium of Condominium, a Condominium was recorded on December 9, 1980, in Official Records Book 895, Page 1091, as well as the first Amended and Restated Declaration of Condominium was recorded on April 22, 1992, in Official Records Book 1707, Page 2132, et seq. The original Articles of Incorporation were amended and restated and recorded as an Exhibit to the Amended and Restated Declaration of Condominium

of Condominium recorded on April 22, 1992, in Official Records Book 1707, Page 2132, et seq. The original Bylaws were amended and restated and recorded as an Exhibit to the Amended and Restated Declaration of Condominium recorded on April 22, 1992, in Official Records Book 1707, Page 2132, et seq.

1992, all in the Public Records of Collier County, Florida.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Signature Page - Certificate of Amendment for Chateaumere Condominium Association, Inc.

Witnesses:

Sign: [Signature]  
Print: Sandra L Hagedorn

Sign: [Signature]  
Print: Raquel Perez

**CHATEAUMERE CONDOMINIUM ASSOCIATION, INC.**

Sign: [Signature]  
Print: LJ De FREEST  
Title: President

STATE OF FLORIDA  
COUNTY OF COLLIER

THE FOREGOING INSTRUMENT was acknowledged before me this 3rd day of April, 2012, by L.J. DeFreest, as **President of Chateaumere Condominium Association, Inc.**, who (check one):

is personally known to me.  
 produced \_\_\_\_\_ as identification.

(NOTARY SEAL/STAMP)



NOTARY PUBLIC:

Sign: [Signature]  
Print: Suzanne Hoffman Perez

Witnesses:

Sign: [Signature]  
Print: Sandra L Hagedorn

Sign: [Signature]  
Print: Raquel Perez

**CHATEAUMERE CONDOMINIUM ASSOCIATION, INC.**

Sign: [Signature]  
Print: NAZ BHIMJI  
Title: Secretary

STATE OF FLORIDA  
COUNTY OF COLLIER

THE FOREGOING INSTRUMENT was acknowledged before me this 3rd day of April, 2012, by NAZ BHIMJI, as **Secretary of Chateaumere Condominium Association, Inc.**, who (check one):

is personally known to me.  
 produced \_\_\_\_\_ as identification.

(NOTARY SEAL/STAMP)



NOTARY PUBLIC:

Sign: [Signature]  
Print: Suzanne Hoffman Perez

Signature of \_\_\_\_\_ (with name of Association for Condominium Association, Inc.)

CHATEAUX DES COMMODITIES ASSOCIATION, INC.

\_\_\_\_\_  
Sign: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: President

\_\_\_\_\_  
Sign: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_

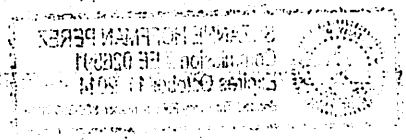
STATE OF FLORIDA  
COUNTY OF COLLIER

THE FOREGOING INSTRUMENT was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by \_\_\_\_\_, as President of Condominium Association, Inc., who (check one):  
\_\_\_\_\_ is personally known to me.  
\_\_\_\_\_ produced \_\_\_\_\_ as identification.

NOTARY PUBLIC

\_\_\_\_\_  
Sign: \_\_\_\_\_  
Print: \_\_\_\_\_

(NOTARY SEAL/STAMP)



CHATEAUX DES COMMODITIES ASSOCIATION, INC.

\_\_\_\_\_  
Sign: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: Secretary

\_\_\_\_\_  
Sign: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_

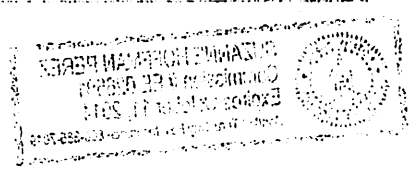
STATE OF FLORIDA  
COUNTY OF COLLIER

THE FOREGOING INSTRUMENT was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by \_\_\_\_\_, as Secretary of Condominium Association, Inc., who (check one):  
\_\_\_\_\_ is personally known to me.  
\_\_\_\_\_ produced \_\_\_\_\_ as identification.

NOTARY PUBLIC

\_\_\_\_\_  
Sign: \_\_\_\_\_  
Print: \_\_\_\_\_

(NOTARY SEAL/STAMP)



**SECOND AMENDED AND RESTATED DECLARATION OF CONDOMINIUM  
OF  
CHATEAUMERE, A CONDOMINIUM**

**KNOW ALL MEN BY THESE PRESENTS:**

The original Declaration of Condominium of Chateaumere, a Condominium, was recorded on December 9, 1980, in Official Records Book 895, Page 409, *et seq.*, of the Public Records of Collier County, Florida. An Amended and Restated Declaration of Condominium was recorded on April 22, 1992, in Official Records Book 1707, Page 2132, *et seq.*, of the Public Records of Collier County, Florida, which document has been subsequently amended on several occasions, and is hereby further amended and restated in its entirety.

1. **SUBMISSION TO CONDOMINIUM OWNERSHIP.** This Amended and Restated Declaration of Condominium (hereinafter referred to as the “Declaration”) is made by Chateaumere Condominium Association, Inc., a Florida not-for-profit corporation, (hereinafter referred to as the “Association”). The land subject to 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. 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 other interest in the Condominium property, or the lease, occupancy, or use of any portion of a Unit or the Condominium property, constitutes an acceptance and ratification of all provisions of this Declaration, as amended from time to time, and an agreement to be bound by its terms.

2. **NAME AND ADDRESS.** The name of the Condominium is Chateaumere, and the street address is 6000 Pelican Bay Boulevard, Naples, Florida 34108.

3. **DESCRIPTION OF CONDOMINIUM PROPERTY.** The land submitted to the condominium form of ownership, (hereinafter referred to as the “Land”), is legally described in Article II of the original Declaration, as Phases One, Two and Three. Those legal descriptions in the original Declaration and amendments thereto are hereby incorporated by reference as though set forth at length herein.

4. **DEFINITIONS.** The terms used in this Declaration and its Exhibits shall have the meanings stated below and in Chapter 718, Florida Statutes, (the “Condominium Act”), unless the context otherwise requires.

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

4.2 **“Association”** means Chateaumere Condominium Association, Inc., a Florida corporation not-for-profit, the entity responsible for the operation of Chateaumere 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 “**Board of Directors**” or “**Board**” means the representative body that is responsible for the administration of the Association’s affairs, and is the same body that is sometimes referred to in the Condominium Act as the “Board of Administration.”

4.5 “**Charge**” or “**Fee**” means any legal or equitable indebtedness to the Association incurred by, or on behalf of, a Unit owner, other than assessments for common expenses. Said obligation may arise by oral or written contract, by law or equity, or may be created by the governing documents.

4.6 “**Family**” or “**Single Family**” shall refer to any one of the following:

- (A) One natural person.
- (B) Two or more natural persons who commonly reside together as a single housekeeping unit, each of whom is related by blood, marriage, or adoption to each of the others.
- (C) Two or more natural persons meeting the requirements of Section 4.6 (B) above, except that there is among them not more than one person who is not so related to some or all of the others.

4.7 “**Fixtures**” means those items of tangible personal property that, 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 that have been built in or permanently affixed, and plumbing fixtures in kitchens and bathrooms. Fixtures do not include floor, wall, or ceiling coverings.

4.8 “**Governing Documents**” means and includes this Declaration and all recorded Exhibits hereto, as amended from time to time.

4.9 “**Guest**” means any person who is not the Unit owner or a lessee, or a member of the owner’s or lessee’s family, who is physically present in, or occupies the Unit on a temporary basis at the invitation of the owner or other legally permitted occupant, without the payment of consideration.

4.10 “**Lease**” means the grant by a Unit owner of a temporary right of use of the owner’s Unit with or without valuable consideration.

4.11 “**Limited Common Elements**” means and includes those common elements which are reserved for the use of a certain Unit or Units, to the exclusion of other Units.

4.12 “**Occupy**,” when used in connection with a Unit, means the act of staying overnight in a Unit. “**Occupant**” is a person who occupies the Unit.

4.13 “**Primary Occupant**” means a natural person approved for occupancy of a Unit when title to the Unit is held in the name of two or more persons who are not husband and wife, or by a trustee, a corporation, or other entity which is not a natural person. The “primary occupant” will be treated as the owner of the Unit for all purposes not specifically excepted elsewhere herein or in the Bylaws.

4.14 “**Rules and Regulations**” means those rules and regulations promulgated by the Board of Directors, governing the use of the common elements and the operation of the Association.

4.15 “**Unit**” has the same meaning as the term defined in the Condominium Act.

4.16 “**Unit Owner**” has the same meaning as the term “unit owner” as defined in the Condominium Act, except that for purposes of interpreting use and occupancy restrictions related to Units, in cases where primary occupants have been designated for a Unit because of its ownership, the word “owner” refers to the primary occupant and the record owner.

4.17 “**Utility**” means electric, gas, and water only, and does not include television, internet, alarm, wireless, recreational facilities, or any other services or amenities.

4.18 “**Voting Interest**” means and refers to the arrangement established in the governing documents by which the owners of each Unit collectively are entitled to one vote in Association matters. There are one hundred-forty (140) Units, so the total number of voting interests is one hundred forty (140) votes.

## 5. **SURVEY AND PLOT PLANS; UNIT BOUNDARIES.**

5.1 **Survey and Plot Plans.** The 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, were attached as Exhibits to the original Declaration, and subsequent amendments thereto, and are incorporated herein by reference.

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

- (A) **Upper and Lower Boundaries.** The upper and lower boundaries of the Unit are the following boundaries, extended to their intersections with the perimeter boundaries:
  - (1) **Upper Boundaries.** The horizontal plane of the unfinished lower surface of the ceiling of the Unit.
  - (2) **Lower Boundaries.** The horizontal plane of the unfinished upper surface of the floor of the Unit.

- (B) Perimeter Boundaries. The perimeter boundaries of the Unit are the vertical planes of the unfinished interior surfaces of the plasterboard walls bounding the Unit, extended to their intersections with each other and with the upper and lower boundaries.
- (C) Interior Walls. No part of the interior partition walls within an apartment shall be considered part of the boundary of a Unit.
- (D) Apertures. Where there are openings in any boundary, including, without limitation, windows, doors, and skylights, the boundaries of the Unit shall extend to the interior unfinished surfaces of the coverings of such openings, and the frameworks thereof.

In case of conflict or ambiguity, the graphic depictions of the Unit boundaries set forth, the survey and plot plans shall control in determining the boundaries of a Unit. Nothing herein shall be construed as purporting to change the boundaries of the Units from what was provided in the Declaration as originally recorded.

**6. SHARES OF OWNERSHIP; APPURTENANCES; CONDOMINIUM PARCELS; USE AND POSSESSION.**

**6.1 Shares of Ownership.** The Condominium contains one hundred forty (140) Units. The owner of each Unit shall also own a one-one hundred fortieth (1/140) undivided share in the common elements and the common surplus.

**6.2 Appurtenances to Each Unit.** Each Unit and its appurtenances constitute a “condominium parcel.” The owner of each Unit shall have certain rights and own a certain interest in the Condominium property, including, without limitation, the following:

- (A) An individual ownership share in the Land and other common elements and the common surplus, as specifically set forth in Section 6.1 above.
- (B) Membership and voting rights in the Association, which shall be acquired and exercised as provided in the Second Amended and Restated Articles of Incorporation, (hereinafter referred to as the “Articles”), and the Second Amended and Restated Bylaws, (hereinafter referred to as the “Bylaws”), of the Association. The Articles and Bylaws are attached hereto as Exhibits “A” and “B,” respectively.
- (C) The exclusive right to use the limited common elements 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) Membership in The Pelican Bay of Naples Foundation, Inc., as provided for in the Pelican Bay Declaration of General Protective Covenants.
- (F) Other appurtenances as may be provided in this Declaration and its Exhibits.

**6.3 Use and Possession.** A Unit owner is entitled to exclusive use and possession of the Unit and 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 subdivided, and no fractional portion may be sold, leased or otherwise transferred. The use of the Units, common elements and limited common elements shall be governed by the governing documents and by the rules and regulations adopted by the Board of Directors.

**6.4 Pelican Bay Covenants.** The property comprising Chateaumere Condominium is subject to the Declaration of General Protective Covenants, dated May 7, 1979, and recorded in Official Record Book 825, at Pages 1755, *et seq.*, of the Public Records of Collier County, Florida; and the Declaration of Restrictions and Protective Covenants for a portion of Parcel "H", Pelican Bay Unit I, dated December 27, 1979, and recorded in Official Records Book 849, at Page 501, *et seq.*, of the Public Records of Collier County, Florida, and as both are amended from time to time.

## **7. COMMON ELEMENTS; EASEMENTS.**

**7.1 Description of Common Elements.** The term "common elements" means all of the property submitted to condominium ownership that is not within the boundaries the Units. The common elements include, without limitation, the following:

- (A) The Land.
- (B) All portions of the buildings and other improvements outside the Units, including all limited common elements.
- (C) Easement through each Unit for conduits, ducts, plumbing, wiring, and other facilities for furnishing utility services to other Units or the common elements.
- (D) An easement of support in every portion of the Condominium which contributes to the support of a building.
- (E) The fixtures and installations required for access and utility services to more than one Unit or to the common elements.

**7.2 Easements.** Each of the following easements and easement rights is reserved through the Condominium property and is a covenant running with the land of the Condominium and, notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any land from the Condominium. None of these easements may be

encumbered by any leasehold or lien other than those on the condominium parcels. Any lien encumbering these easements shall automatically be subordinate to the rights of Unit owners with respect to such easements.

- (A) Utility and Other Easements. The Association has the power, without the joinder of any Unit owner, to grant, modify, or move easements such as electric, gas, cable television, or other utility or service easements, or relocate any existing easements, in any portion of the common elements or Association property, and to grant access easements or relocate any existing access easements in any portion of the common elements or Association property, as the Association shall deem necessary or desirable for the proper operation and maintenance of the Condominium. Such elements, 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.
- (B) Encroachments. If any Unit encroaches upon any of the common elements or upon any other Unit for any reason other than the intentional act of the Unit owner, or if any common element encroaches upon any Unit, than an easement shall exist to the extent of that encroachment as long as the encroachment exists.
- (C) Ingress and Egress. A non-exclusive easement shall exist in favor of each Unit owner and occupant, their respective tenants, guests, invitees, and licensees, 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.

**7.3 Restraint Upon Separation and Partition.** The undivided share of ownership in the common elements and the 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. As long as the Condominium exists, the common elements cannot be partitioned. The shares in the funds and assets of the Association cannot be assigned, pledged, or transferred except as an appurtenance to the Units.

## **8. LIMITED COMMON ELEMENTS.**

**8.1 Description of Limited Common Elements.** Certain common elements have been reserved for the use of a particular Unit or Units, to the exclusion of other Units. The limited common elements and the Units to which their exclusive use is appurtenant, are as



described in this Declaration and its recorded Exhibits. The following common elements are hereby designated as limited common elements:

- (A) Storage Lockers. Certain storage lockers have been assigned to the exclusive use of certain Units. No Unit may be assigned or acquire the use of more than one locker.
- (B) Parking Spaces. One parking space in the parking area of the Condominium property shall be assigned by the Board of Directors to each Unit. Once assigned, the parking space shall thereafter be deemed a limited common element reserved for the use of the Unit to which it was originally assigned and to the exclusion of the other Units. The remaining parking area shall be for the general use of the Unit owners and their guests.
- (C) Air Conditioning and Heating Equipment. All equipment, fixtures, and installations located outside the Unit, which furnish air conditioning or heating exclusively to that Unit, shall be limited common elements.
- (D) Balconies, Terraces, and Porches. Any balcony, terrace, or porch that is attached to and serves only one single Unit shall be a limited common element.
- (E) Others. Any part of the common elements that is connected to or exclusively serves a single Unit, shall be deemed a limited common element appurtenant to that Unit, whether or not specifically described above.

**8.2 Exclusive Use; Transfer of Use Rights.** The exclusive use of a limited common element is an appurtenance to the Unit or Units to which it is designated or assigned. The right of the exclusive use of each limited common element passes with the Unit to which it is assigned, whether or not separately described, and cannot be separated from it; except that the use rights to a particular parking place or storage locker may be exchanged between Units by agreement between the Unit owners desiring such exchange, with the prior approval of the Association.

**9. ASSOCIATION.** The operation of the Condominium is by Chateaumere Condominium Association, Inc., a Florida corporation not-for-profit, that shall perform its function pursuant to the following:

**9.1 Articles of Incorporation.** The Second Amended and Restated Articles of Incorporation are attached as Exhibit "A."

**9.2 Bylaws.** The Second Amended and Restated Bylaws are attached as Exhibit "B."

**9.3 Delegation of Management.** The Association may contract for the management and maintenance of the Condominium property and employ a licensed manager or management company to assist the Association in carrying out its powers and duties by performing such

functions as the submission of proposals, collection of assessments, keeping of records, enforcement of rules, and maintenance, repair, and replacement of the common elements with funds made available by the Association for such purposes. However, the Association and its Officers shall retain at all times the powers and duties provided in the Condominium Act.

**9.4 Membership.** The membership of the Association shall be the record owners of legal title to 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 the governing 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 governing documents. The Association may contract, sue, or be sued with respect to the exercise or nonexercise of its powers and duties. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and any 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 Condominium Land, for the use and enjoyment of the Unit owners. The Association has the power to enter into contracts for bulk communication services.

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

**9.8 Purchase of Units.** The Association has the power to purchase 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 interest in real property shall be exercised by the Board of Directors, but only after approval by at least a majority of the voting interests.

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

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

**9.12 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, 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. This power includes 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 this Declaration, the Bylaws, and as follows:

**10.1 Common Expenses.** Common expenses include the expenses of 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 amounts budgeted for the purpose of funding reserve accounts. The cost of water and sewer service to the Units shall be a common expense. If the Association contracts for pest control within Units and/or communications services in bulk for the entire Condominium, then the cost of such services shall be a common expense. The assessments levied against the Condominium property by The Pelican Bay of Naples Foundation, Inc., are also a common expense.

**10.2 Share of Common Expenses.** The owner of each Unit shall be liable for an equal share of the common expenses.

**10.3 Ownership.** Assessments and other funds 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 Unit. No owner can withdraw or receive distribution of his 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. Whenever title to a condominium parcel is transferred for any reason, the new owner is jointly and severally liable with the previous owner for all assessments that came due prior to the transfer and remain unpaid, without prejudice to any right the new owner may have to recover from the previous owner any amounts paid by the new owner.

**10.5 No Waiver or Excuse from Payment.** The liability for assessments may not be avoided or abated by waiver of the use or enjoyment of any common elements, by abandonment of the Unit on which the assessments are made, or by interruption in the availability of the Unit or the common elements for any reason whatsoever. No Unit owner may be excused from payment of his share of the common expenses unless all Unit owners are likewise proportionately excused from payment.

**10.6 Application of Payments; Failure to Pay; Interest.** Assessments that are not paid within (10) days of the date due shall bear interest at the highest rate allowed by law, calculated from the date due until paid. The Association may also impose a late fee (in addition to interest) in the highest amount permitted by law. Assessments shall become due on the date established by the Board of Directors for payment. All payments on account shall be applied first to interest, then to late fees, then to costs, then to attorney fees, and finally to the oldest delinquent assessments. No payment by check is deemed received until the check has cleared.

**10.7 Acceleration.** When the Association has the right to file a Claim of Lien in regard to delinquent assessments, then the Association shall have the right to accelerate the due date for all amounts due for the remainder of the fiscal year. The due date for all accelerated amounts shall be the date the Claim of Lien is recorded in the Public Records. The Association's Claim of Lien shall secure payment of the entire accelerated obligation, together with interest, costs and attorney fees. The 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 providing the delinquent owner with notice of acceleration in conjunction with providing notice of the filing of the Claim of Lien.

**10.8 Liens.** The Association has a lien on each condominium parcel securing payment of past due assessments, including interest, costs, and attorney fees incurred by the Association incident to the collection of the assessment or enforcement of the lien, whether before, during, or after a lien foreclosure suit. The lien is perfected upon recording a Claim of Lien in the Public Records of Collier 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 coming due prior to a final judgment of foreclosure. Upon full payment, the person making the payment is entitled to a Satisfaction of Lien.

**10.9 Priority of Lien.** The Association's lien for unpaid assessments shall relate back to the filing of the original Declaration of Condominium of Chateaumere, and shall be superior to, and take priority over, any other lien, including a first mortgage, except to the least extent required by the Condominium Act or other Statute, as amended from time to time. Any lease of a Unit shall be subordinate and inferior to the Association's lien, 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 fifteen (15) days after request by a Unit owner or mortgagee, the Association shall provide a certificate (sometimes referred to as an “estoppel letter”) stating whether all assessments and other monies owed to the Association by the Unit owner with respect to the condominium parcel have been paid. Any person other than the owner who relies upon such certificate shall be protected thereby. The Association may charge a fee for such service in the highest amount allowed by law.

**11. MAINTENANCE.** Responsibility for the protection, maintenance, repair, and replacement of the Condominium property shall be as follows:

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

- (A) Electrical wiring up to the circuit breaker panel in each Unit.
- (B) Plumbing serving the common elements and multiple Units.
- (C) All installations, fixtures, and equipment located within one Unit but serving another Unit, or located outside the Unit, for the furnishing of utilities to more than one Unit or the common elements.
- (D) The painting of the surface of the exterior surface of the front entrance doors to the Units.
- (E) Fire alarm systems and sprinkler systems.
- (F) All exterior building walls.
- (G) All interior corridor and atrium walls.
- (H) Railings and screens on balconies, terraces, and porches.

All incidental damage caused to a Unit or limited common elements by work performed or ordered to be performed by the Association shall be promptly repaired by and at the expense of the Association, which shall restore the property as nearly as practical to its condition before the damage, and the costs shall be a common expense, except the Association shall not be responsible for the damage to any alteration or addition made by a Unit owner.

**11.2 Unit Owner Maintenance.** Each Unit owner is responsible for all maintenance, repairs, and replacements of the Unit and certain limited common elements. The owner’s responsibilities include, without limitation:

- (A) All decorating within his own Unit, including painting, wallpapering, paneling, floor covering, draperies, window shades, curtains, lamps and other light fixtures, and other furnishings and interior decorating.
- (B) All windows, window glass, fixed glass panels, as well as all associated frames, hardware, locks, weather-stripping, and screens.
- (C) The front entrance door to the Unit as well as all associated frames, hardware, locks, weather-stripping and screens, excepting only the painting of the exterior surface of the front entrance door.
- (D) All other doors and sliding glass doors affording access to the Unit or that are within the Unit, as well as all associated frames, hardware, locks, weather-stripping, and screens.
- (E) The electrical, mechanical, and plumbing fixtures, switches, valves, drains and outlets (including connections) located partially or entirely within the Unit or serving only the Unit.
- (F) The circuit breaker panel and all electrical wiring going into the Unit from the panel.
- (G) Appliances, water heaters, smoke alarms, and vent fans.
- (H) All air conditioning and heating equipment, thermostats, ducts, and installations servicing the Unit exclusively.
- (I) Carpeting and other floor coverings.
- (J) Plumbing serving only the Unit and the shower pan.
- (K) The main water supply shut-off valve for the Unit.
- (L) All interior partition walls that do not form part of the boundary of the Unit.
- (M) The day-to-day cleaning and care of the interior surfaces of the walls, floors, and ceilings of any balcony, lanai, terrace, or porch serving only the Unit, together with all light fixtures, fans, switches, and electrical wiring thereon.
- (N) Other facilities or fixtures that are located or contained entirely within the Unit and serve only the Unit.

**11.3 Window, Door, and Glass Replacement.** All door, sliding glass door, and window and glass replacement must be preapproved by the Board of Directors and meet the specifications established in 2010, which specifications may be further modified from time to time to ensure optimum protection from windstorm and other hazards.



**11.4 Appliance Maintenance Contracts.** If there shall become available to the Association a program of contract maintenance for water heaters within Units and/or air-conditioning compressors and/or air handlers serving individual Units that the Association determines is to the benefit of the owners to consider, then upon agreement by a majority of the voting interests present and voting, in person or by proxy, at a meeting called for the purpose, or upon agreement by a majority of the total voting interests in writing, the Association may enter into such contractual undertakings. The expenses 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 Care of the Unit in the Owner's Absence.** In order to help minimize potential damages to a Unit, the common elements, and those that might be affected, all Unit owners shall comply with the following procedures when their Unit is unoccupied for one (1) week:

- (A) Turn off the water to the Unit by fully closing the water valve. Water should be turned off when the Unit is unoccupied for 72 hours or longer.
- (B) Arrange for a responsible person to enter and inspect the condition of the Unit at least twice per month. Any condition that might adversely affect the Unit, adjacent Units, and/or common elements should immediately be reported to the Unit owner and to the Association's management company. The Unit owner shall submit the name, address, and telephone number of the responsible person who will be inspecting the Unit to the management company.
- (C) The Unit owner shall have a professionally qualified person perform recommended maintenance on the air conditioning system at least once annually.
- (D) The air-conditioners and Unit shall at all times be maintained at a maximum temperature of 82 degrees, and humidistats, if installed, must be used and set to at least 40% when the Unit is vacant for said one (1) week.

**11.6 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, 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 that, in the reasonable judgment of the Board of Directors, may constitute a health or safety hazard to other property or residents. 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 fees and other expenses of collection, if any.

**11.7 Negligence.** The owner of each Unit shall be liable for any expenses made necessary by the owner's negligence, or by that of any member of his family, or tenants, guests, invitees, employees, or agents.

**11.8 Association's Access to Units.** 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 the common elements or other Units, and to protect the health and safety of other residents. 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. The exercise of the Association's rights of access to the Unit shall be accomplished with due respect for the rights of occupants to privacy and freedom from unreasonable annoyance, as well as with appropriate precautions to protect the personal property within the Unit. The Association may retain a pass-key to all Units. If it does, no Unit owner shall alter any lock nor install a new lock that prevents access when the Unit is unoccupied, unless the Unit owner provides the Association with a copy of the key. If the Association is not provided with a key to the Unit, the owner shall pay all costs incurred by the Association in gaining entrance to his Unit, and shall also be responsible for any damage done to his Unit in gaining entrance thereto, and shall also be liable for any damage resulting from delay in gaining entrance to his Unit caused by the unavailability of a key.

## **12. ALTERATIONS, ADDITIONS, AND REPLACEMENTS.**

**12.1 Combining Units.** Nothing in this Declaration shall be construed as prohibiting the Board of Directors from authorizing the removal of the party wall between two Units in order that the Units might be used together as one integral living space. In such event, all assessments, voting rights, and the share of common elements shall be calculated as such Units were originally designated on the Exhibits attached to this Declaration, notwithstanding the fact that several Units are used as one, with the intent and purpose that the owner of such "combined" Units shall be treated as the owner of as many Units as have been combined.

**12.2 Alteration of Units or Limited Common Elements by Unit Owners.** All plans for renovations, modifications, and alterations to a Unit and appurtenant limited common elements must be pre-approved, in writing, by the Board of Directors. The Board of Directors may refuse to approve a proposed plan for any reasonable cause, including, but not limited to, safety concerns, without the necessity of obtaining professional opinions to support such concerns. The Unit owner and successors in title shall be financially responsible for the maintenance, repair, and replacement 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. The Unit owner is also responsible to provide casualty insurance on all such modifications, installations, alterations or additions, even if the Association would otherwise be required to provide casualty insurance by statute or under the governing documents. The Unit owner and successor in title shall also be responsible for the costs of removing and replacing or reinstalling such modifications, installations, alterations or additions, if their removal by the Association becomes necessary in order to maintain, repair, replace, or protect other parts of the Condominium property.

- (A) **Flooring.** All flooring, including carpeting, must be installed over padding or other sound-deadening insulation according to the standards adopted by the Board from time to time. The installation of tile, hardwood, or other hard surface floors must be pre-approved, in writing, by the Board. The

Board reserves the right to inspect the work to assure compliance with the Board's specifications for insulation. If the Unit owner fails to obtain pre-approval or does not give the Board the opportunity to inspect and verify that appropriate insulation has been laid, then the Board may require additional padding and carpeting or other floor covering to be installed over the existing flooring, and the Board may do so without waiving any other remedy.

- (B) Hurricane Shutters, Blinds, Window and Door Coverings. In 2010, the Association installed new windows and sliding glass doors that provide hurricane protection that equals or exceeds the applicable building code. No hurricane shutters are permitted nor may the owners install any kind of awnings, shutters, screens, or coverings of any kind on the exterior of the building, the windows, the sliding doors, the glass panels, or the front entrance doors. Owners may install interior blinds, draperies, shutters, and similar coverings, but the Board may establish standards for the appearance from the outside.
- (C) 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 limited common elements, whether with or without Association approval, such owner shall be deemed to have warranted to the Association and its members that his contractor(s) are properly licensed and fully insured, and that the owner will be financially responsible for any resulting damage to persons or property not paid by the contractor's insurance.

**12.3 Alterations and Additions to Common Elements and Association Property.**

The Association shall make no material alteration of or substantial additions to the common elements or the real property owned by the Association costing more than \$50,000.00, in the aggregate, in any one calendar year, without prior approval of at least a majority of the voting interests. Alterations or additions costing less than this amount may be made with Board approval. If work reasonably necessary to protect, maintain, repair, replace, or insure the common elements or Association property also constitutes a material alteration or substantial addition to the common elements, no prior Unit owner approval is required.

**13. USE RESTRICTIONS.** The use of the Condominium property shall be in accordance with the following provisions:

**13.1 Use.** Each Unit shall be occupied by only one family at any time, as a residence and for no other purpose. No business or commercial activity shall be conducted in or from any Unit. The use of a Unit as a public lodging establishment shall be deemed a business or commercial use. This restriction shall not be construed to prohibit any owner from maintaining a personal or professional library, or from keeping his personal, business, or professional records in his Unit, or from handling his personal, business, or professional telephone calls or written

correspondence in and from his Unit. Such uses are expressly declared customarily incident to residential use.

**13.2 Pets.** The keeping of pets on the Condominium property is prohibited. Any resident contending that an exception is required for a service animal under the Fair Housing Act or other similar law shall provide the Association with prior notice and documentation to support the claim for an exception.

**13.3 Parking.** No motor vehicle shall be parked on the Condominium property except in such areas designated for parking. Vehicles must be parked completely within the designated parking space and may not encroach onto the adjacent roadway, landscaped areas, sidewalks, or parking spaces. Trucks, trailers, motorcycles, recreational vehicles, motor homes, campers, disabled vehicles, vehicles with missing body parts, or commercial vehicles of whatever type, other than service vehicles temporarily present on business, shall not be parked on the Condominium property. The term "commercial vehicle" as used herein means any vehicle with an open cargo bed or that displays any signage, tools, or equipment that is of a commercial nature, or any vehicle with or without signage, tools, or equipment that is primarily designed to be used for commercial purposes, regardless of whether or not it is presently being used for commercial purposes. Permitted vehicles are limited to passenger cars, passenger vans, jeeps and/or station wagons. Vehicles that exceed eighty inches (80") in height or two hundred five inches (205") in length are not permitted. The Board of Directors may adopt rules regarding the use of covers on vehicles parked in the assigned spaces and may remove any unsightly coverings without prior notice or liability to the owner.

**13.4 Unassigned Parking Spaces.** No owner shall park in a space assigned to another Unit without permission of the other Unit owner. Tenants may only keep one vehicle on the Condominium property and it must be parked in the covered space assigned to the Unit. The invitees or guests of tenants may not use the unassigned spaces for overnight parking without prior permission from the Association. The Board of Directors may require vehicles being parked overnight in an unassigned parking space to display a parking permit, and may establish other rules limiting the number of vehicles that owners may keep on Condominium property and the use of the unassigned spaces. No covers or tarps may be placed on vehicles in the unassigned spaces.

**13.5 Towing and Booting.** Any vehicle that is parked in violation of the Association's restrictions may be towed or booted. No prior notice is required. All costs and expenses shall be borne by the owner of the vehicle. Such costs and expenses shall not be considered a fine or suspension of the right to use the common facilities and do not preclude the Association from pursuing those remedies instead of or in addition to towing or booting a vehicle. The Association is not liable for any damage to a vehicle that is towed or booted by a licensed and insured contractor. Unit owners and lessees are responsible to see that all of the occupants of their Units, as well as guests, visitors, and invitees, comply with the Association's parking restrictions. Unit owners are responsible to indemnify, defend, and hold the Association harmless from all claims against the Association on account of towing or booting a vehicle, including claims against the Association asserted by any occupant of the Unit as well as any guests, visitors, and invitees to a

Unit, excepting only if it has been judicially determined that the Association is guilty of gross negligence or a higher degree of culpability.

**13.6 Nuisances.** No owner shall use his Unit, or permit it to be used, in any manner that constitutes or causes an unreasonable amount of annoyance or 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 and the governing documents, and occupants shall at all times conduct themselves in a peaceful and orderly manner.

**13.7 Signs.** No person may post or display “For Sale,” “For Rent,” or other similar signs anywhere on the Condominium property. “Open House” signs must be approved by the Association, as provided by the rules.

**13.8 Use of Common Elements.** Common hallways, stairways, and other common elements shall not be obstructed, littered, defaced, or misused in any manner. Balconies, terraces, porches, walkway, and stairways shall be used only for the purposes intended, and they shall not be used for hanging or drying clothing, for outdoor cooking, for cleaning of rugs or other household items, or for storage of bicycles or other personal property. The patio and courtyard areas located on the ground floor of Buildings A and B, which are not attached to or serving exclusively a single Unit, are common elements whose use is subject to the rules of the Association.

#### **14. OCCUPANCY IN THE ABSENCE OF THE OWNER; LEASING.**

**14.1 Occupancy in Absence of Owner.** If the owner and the owner’s family who permanently reside with the owner are not occupying the Unit, then any occupancy shall be considered a lease, whether or not the occupants are paying rent, and shall be subject to provisions pertaining to leases, except that the owner may permit the Unit to be occupied without compliance with the provision pertaining to leasing under the following circumstances and limitations:

- (A) Any person who is the grandparent, parent, child, or adult grandchild of the owner or the owner’s spouse, if any, may occupy the Unit in the absence of the owner without limitation as to the number of occasions or length of stays.
- (B) In order not to be challenged by owners, security, or management, all overnight guests who are not accompanied by owners must be registered in accordance with policies and procedures established by the Board of Directors from time to time.
- (C) Only two (2) people per bedroom may occupy a Unit in the absence of the owner.
- (D) Upon prior written application by the owner, the Board of Directors may make such limited exceptions to the foregoing restrictions as may be

deemed appropriate in the Board's discretion for the sole purpose of avoiding undue hardship or inequity.

**14.2 Leasing of Units.** The following restrictions shall apply to the leasing of the Units:

- (A) All leases must be in writing, even if no rent or other consideration is involved.
- (B) No Unit may be leased more than two (2) times in any calendar year. The minimum lease term is ninety (90) continuous days. No new lease may begin until at least ninety (90) days have elapsed since the first day of the last lease. No lease may be for a period of more than one (1) year, and no automatic option for the lessee to extend or renew the lease for any additional period shall be permitted. However, the Board of Directors may, in its discretion, approve the same lease from year to year.
- (C) An owner may lease only the entire Unit and no room rental, sub-leasing, or assignment of lease rights by the lessee or owner is allowed.
- (D) The lessee must be a natural person as opposed to an artificial entity, such as a corporation, partnership, trust, etc.
- (E) The Association may determine the form of the application for approval of leases, may prescribe a form of lease to be used by the owners, and may conduct interviews and background checks on all proposed occupants.
- (F) The owner shall provide the Association with a copy of the proposed lease and fully completed application for approval of the lease not less than twenty (20) days prior to the proposed occupancy.
- (G) The lease and lease application must include the identification of all persons who will be occupying the Unit during the term of the lease.
- (H) The Association may charge an application fee and require a damage deposit in the highest amounts permitted by law.
- (I) The Association may file suit to evict any tenants in its own name, and without consent of the owner, in the event that any lessee violates the provisions of the governing documents or the rules or regulations of the Association. In such cases, the owner and the lessee shall be jointly and severally liable for all attorney fees and costs, including those incurred prior to the filing of the lawsuit.
- (J) Any owner who is in arrears on the obligation to pay regular or special maintenance assessments or other financial obligation is deemed to have assigned the right to collect rents to the Association and, solely upon

demand by the Association, the lessee shall make payment of all or such portion of the future rents that the Association specifies for so long as the Association specifies. The Association shall apply the rent to the owner's unpaid account in accordance with the priority established under Section 718.116, Florida Statutes, and shall promptly remit any excess over the amounts due on the account to the owner.

(K) A proposed lease may only be disapproved for good cause. Appropriate good cause grounds for disapproval shall include, but not be limited to, the following:

- (1) The owner is delinquent in the payment of assessments at the time the application is considered.
- (2) The owner has a history of leasing the Unit without obtaining approval, or leasing to troublesome lessees, and/or refusing to control or accept responsibility for the occupancy of the Unit.
- (3) The real estate company or rental agent handling the leasing transaction on behalf of the owner has a history of screening lessee applicants inadequately, recommending undesirable lessees, or entering into leases without prior Association approval.
- (4) The application on its face indicates that the prospective lessee or any proposed occupant intends to act in a manner inconsistent with the restrictions applicable to the property.
- (5) The prospective lessee or any proposed occupants have been convicted of a crime involving violence to persons or property, drug dealing, or are registered as a sexual predator and/or offender or have a history of numerous misdemeanor convictions.
- (6) The prospective lessee or any proposed occupants have a history of conduct which evidences disregard for the rights and property of others.
- (7) The prospective lessee or any proposed occupants evidence a strong possibility of financial irresponsibility.
- (8) The prospective lessee or any proposed occupants have, during previous occupancy, evidenced an attitude of disregard for the Association rules.
- (9) The prospective lessee or any proposed occupants have given false or incomplete information to the Board of Directors as part of the application procedure, or the required transfer fee and/or security

deposit is not paid.

- (10) The owner fails to give proper notice to the Association of the intention to lease the home.

**14.4. Unapproved Leases.** Any lease of a Unit that has not been approved by the Association may, at the option of the Association, be treated as a nullity, and the Board shall have the power to evict the lessee without securing consent for such eviction from the owner.

**14.5 Owner's Use and Occupancy Rights Terminate.** The owner may not occupy the Unit or use the common amenities or park any vehicle anywhere on the Condominium property during the term of the lease.

**14.6 Additional Restrictions on Use and Occupancy During Lease Term.**

- (A) If the lessee(s) and all of the family members who are approved to reside in the leased Unit are all absent, then no other person may occupy a leased home.
- (B) Lessees may only keep one (1) vehicle on the Condominium property and it must be parked in the covered space assigned to the Unit.
- (C) The Association may also impose additional conditions on lease approval and rules for lessees that are stricter than those that apply to owners, including, but not limited to, the number of vehicles that lessees and their visitors and guests may park in the community.

**15. 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:

**15.1 Forms of Ownership.**

- (A) A Unit may be owned by one natural person who has qualified and been approved as elsewhere provided herein.
- (B) Co-Ownership. Co-ownership of Units is permitted. If the co-owners are to be other than husband and wife, the Board shall condition its approval upon the designation by the proposed new owners of not more than one (1) approved natural person as the "primary occupant." The use of the Unit by other persons shall be as if the primary occupant was the only actual owner. Any subsequent change in the primary occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions



of this Section. No more than one such change will be approved in any twelve (12) month period.

- (C) 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. The approval of a trustee, corporation, partnership, or other entity as a Unit owner shall be conditioned upon designation by the owner of a natural person to be the "primary occupant." The use of the Unit by other persons shall be as if the primary occupant was the only actual owner. Any subsequent change in the primary occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Section. No more than one such change will be approved in any twelve (12) month period.
- (D) Designation of Primary Occupant. Within thirty (30) days after the effective date of this provision, each owner of a Unit which is owned in the forms of ownership stated in the preceding Sub-Sections 15.1(B) and (C) above shall designate a primary occupant, in writing, to the Association. If any Unit owner fails to do so, the Board of Directors may make the initial designation for the owner, and shall notify the owner in writing of its action.
- (E) Life Estate. A Unit may be subject to a life estate, either by operation of law or by a voluntary conveyance approved under Section 15.2 below. In that event, the life tenant shall be the only Association member from such Unit, and occupancy of the Unit shall be as if the life tenant was the only owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy rights unless separately approved by the Association. The life tenant shall be liable for all assessments and charges against the Unit. Any consent or approval required of Association members may be given by the life tenant alone, and the consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-owners for purposes of determining voting and occupancy rights under sub-Section 15.1(B), above.

**15.2 Ownership of More Than Two Units is Prohibited.** The ownership, in whole or in part, directly or indirectly, including an interest in a corporation, partnership, or trust that holds title of more than two (2) Units at the same time by the same person, family, partnership, corporation, or trust is prohibited

### 15.3 Transfers.

- (A) Sale or Gift. No Unit owner may transfer a Unit or any ownership interest in a Unit by sale or gift (including agreement for deed) without prior written approval of the Board of Directors.
- (B) Devise or Inheritance. If any Unit owner acquires title by devise or inheritance, the right to occupy or use the Unit shall be subject to the approval of the Board of Directors, as set forth below. The approval shall not be denied to any devisee or heir who was the prior owner's lawful spouse at the time of death, or was related to the owner by blood or adoption within the first degree.
- (C) Other Transfers. If any person acquires title in any manner not considered in the foregoing Sub-Sections, that person shall have no right to occupy or use the Unit before being approved by the Board of Directors under the procedures outlined below.
- (D) 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) Unit owners, at least one of whom shall be a Director. 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.

### 15.4 Procedures.

- (A) Notice to Association.
  - (1) Sale or Gift. An owner intending to make a sale or gift of his Unit or any interest therein shall give to the Board of Directors or its designee written notice of such intention at least twenty (20) days before the intended closing date, together with the name and address of the proposed purchaser or donee, a copy of the executed sales contract, if any, and such other information as the Board may reasonably require. The Board may require a personal interview with any purchaser or donee and spouse, if any, as a pre-condition to approval.
  - (2) Devise, Inheritance, or Other Transfers. The transferee must notify the Board of Directors of his ownership and submit a certified copy of the instrument evidencing ownership and such other information as the Board may reasonably require. The transferee shall have no occupancy or use rights until and unless approved by the Board, but may sell or lease the Unit following the procedures in this Section.

- (3) Demand. When approval of the transfer is required, the owner or transferee seeking approval may make a written demand that if the transfer is disapproved without good cause, the Association shall furnish an approved alternate purchaser who shall purchase the Unit at the same price and upon substantially the same terms as in the disapproved sales contract, or if no contract is involved, for the fair market value of the Unit determined as provided below.
- (4) Failure to Give Notice. If no notice is given, the Board of Directors, at its election, may approve or disapprove the sale or transfer at the time it learns of the transfer. If any owner fails to obtain the Association's approval prior to selling an interest in a Unit, such failure shall create a rebuttable presumption that the seller and the purchaser intend to violate the covenants of this Declaration, and shall constitute good cause for Association disapproval.
- (B) Board Action. Within twenty (20) days after receipt of the required notice and all information or interviews requested, or not later than sixty (60) days after the required notice 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 executed by the President or Vice-President of the Association in recordable form and delivered to the transferee. If the Board neither approves nor disapproves within the time limits as set forth above, such failure to act shall be deemed the equivalent of approval and on demand the Board shall issue a Certificate of Approval to the transferee.
- (C) Disapproval.
- (1) With Good Cause. Approval of the Association shall be withheld for good cause only if a majority of the whole Board so votes, after receiving written opinion of counsel that good cause exists. Only the following may be deemed to constitute good cause for disapproval.
- (a) The person seeking approval has been convicted of a crime involving violence to persons or property, drug dealing, or is registered as a sexual predator and/or offender, or has a history of numerous misdemeanor convictions.
- (b) The person seeking approval has a record of financial irresponsibility, including, without limitation, prior bankruptcies, foreclosures, or bad debts.
- (c) The person seeking approval gives the Board reasonable cause to believe that the person intends to conduct

themselves 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 by his conduct in the Condominium community 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 two (2) Units in the Condominium.
- (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.
- (h) The transaction, if a sale or gift, was concluded by the parties without having sought and obtained the prior approval required herein.

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

days after determination of fair market value by appraisal, whichever occurs last. Failure or refusal to close by either party shall constitute a breach of contract and shall entitle the other party to seek specific performance or damages.

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

**15.5 Exception.** The provisions of this Section are not applicable to the acquisition of title by a first mortgagee who acquires title through the mortgage, whether by foreclosure or deed in lieu of foreclosure, but are applicable to any subsequent sale by the former mortgage holder.

**15.6 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.

**15.7 Fees and Deposits Related to the Sale of Units.** Whenever herein the Board's approval is required to allow the sale or other transfer of an interest in a Unit, the Association may charge the owner a pre-set fee for processing the application, such fee not to exceed the maximum amount allowed by law.

**16. 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:

**16.1 By the Unit Owner.** Each Unit owner shall maintain a policy of general liability insurance with at least \$100,000.00 of coverage per occurrence. Each Unit owner shall also maintain windstorm, flood, and all-risk hazard insurance covering the Unit and its contents, with endorsements for leakage, seepage, and wind-driven rain and loss assessment, and shall also insure all improvements, additions, and modifications made to the Unit, the limited common elements, or common elements, whether made by themselves or their predecessors in title.

**16.2 Association Insurance; Duty and Authority to Obtain.** The Board of Directors shall use its best efforts to obtain and maintain adequate insurance to protect the Association, the Association property, the common elements, and the Condominium property, and obtain and keep in force any or all additional insurance coverage as it deems necessary. The Association shall use its best efforts to obtain and maintain the following insurance coverage:

- (A) **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.

- (B) Motor Vehicle. 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.
- (C) Worker's Compensation. The Association shall maintain Worker's Compensation insurance on at least a minimum premium basis even if it has no actual employees.
- (D) Directors, Officers, and Committee Members' Liability (Errors and Omissions).
- (E) Fidelity Bond/Insurance. The Association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the Association. 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. As used in this Sub-Section, the term "persons who control or disburse funds of the Association" 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.
- (F) Property/Hazard. Loss or damage by fire, extended coverage (including windstorm), flood, vandalism and malicious mischief, and other hazards covered by what is commonly known as an "all-risk" property contract.

**16.3 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.

**16.4 Named Insured and Insurance Proceeds.** The name of the insured shall be the Association and the Unit owners, without naming them, and their mortgagees, as their interests shall appear, and all proceeds shall be payable to the Association. The duty of the Association shall be to receive such proceeds as are paid, to hold the same in trust, and disburse them for the purposes stated herein, and for the benefit of the Unit owners and their respective mortgagees, in the following shares:

- (A) Common Elements. Proceeds on account of damage to common elements shall be held in as many individual shares as there are Units, the shares of each Unit owner being the same as his share in the common elements.
- (B) Units. Proceeds on account of damage within the Units shall be held in undivided shares based on the pro-rated amount of damage within each damaged Unit, as a percentage of the total damage within all Units, except that if the Condominium is terminated then the insurance proceeds shall be

allocated as provided in the Plan of Termination adopted in accordance with Section 718.117, Florida Statutes, which allocation may or may not be the same as the Unit owner's share in the common elements.

- (C) Mortgagees. 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 a Unit or Units, except to the extent that insurance proceeds exceed the actual cost of repair or restoration of the damaged building or buildings. In addition, except as otherwise expressly provided, no mortgagee shall have any right to participate in determining whether improvements will be restored after casualty.

**16.5 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:

- (A) Cost of Reconstruction or Repair. If the damage for which the proceeds are paid is to be reconstructed or repaired by the Association, the proceeds shall be paid to defray the costs thereof. All costs of construction and repair in excess of the insurance proceeds received by the Association shall be paid by the Association as a common expense. Any insurance proceeds remaining after paying the construction and repair costs shall become common surplus of the Association.
- (B) 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, but the Condominium is not to be terminated, the remaining proceeds shall be distributed to the beneficial owners, the remittances to Unit owners and their mortgagees being payable jointly to them. If the Condominium is terminated, the proceeds shall be distributed according to Section 718.117(17), Florida Statutes.

**16.6 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.

**16.7 Deductibles**. The Board of Directors shall establish the amount of the deductibles under the insurance policies it obtains on behalf of the Association, and other features as it deems desirable and, in its business judgment, in the best interest of the Association. The deductibles shall be paid by the Association as a common expense.

**17. 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:

**17.1 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 used as provided above. The Association shall be responsible for reconstruction and repair, including the costs thereof in excess of the insurance proceeds from the Association insurance, for all portions of the Unit that it insures and/or is otherwise required to maintain, repair, or replace pursuant to this Declaration or the law. The Unit owner shall be responsible for reconstruction and repair, including the costs thereof in excess of the insurance proceeds from his or its insurance, for all portions of the Unit and/or limited common elements that the owner insures and/or is otherwise required to maintain, repair, or replace pursuant to this Declaration or the law. The foregoing notwithstanding, if the Board of Directors determines, in its sole and exclusive discretion, that due to the nature or the extent of the damage to the Unit or Units that it is in the best interest of the Association that all the reconstruction and repair be made by the Association, then the Association shall be entitled to receive all insurance proceeds, contract for the repairs, make the repairs, and thereafter distribute the excess unused proceeds of the owner's insurance, if any, to the owners.

**17.2 Damage to Units and 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, unless the Unit owners vote to terminate the Condominium, 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.

**17.3 Damage to Units and Common Elements – "Very Substantial".** As used in the Declaration, the term "very substantial" damage shall mean loss or damage whereby at least three-fourths (3/4) of the total Units cannot reasonably be expected to be rendered habitable within one (1) year of the casualty. Should such "very substantial" damage occur, then:

- (A) The Board of Directors shall endeavor to obtain comprehensive, detailed estimates of the cost of repair and restoration.
- (B) A meeting of the members shall be held not later than sixty (60) days after the Board of Directors 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 without levying a special assessment that exceeds fifty percent (50%) of the total annual budget for the Condominium in the year in which the casualty occurred, the Condominium shall be repaired and reconstructed unless the owners otherwise vote to terminate the Condominium.
  - (2) If upon the advice of legal counsel and engineers, 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 reconstruction shall constitute economic waste or impossibility as provided in Section 718.117(2), Florida Statutes, or if the insurance proceeds, reserves, and other Association funds available for restoration and repair are not sufficient to cover the estimated cost thereof, and it is reasonably anticipated that the repairs and reconstruction can be accomplished only by levying special assessments exceeding fifty percent (50%) of the total annual budget for the Condominium in the fiscal year in which the casualty occurred, a vote to terminate the Condominium shall be conducted pursuant to Section 718.117, Florida Statutes. If the Unit owners vote against termination, the Board of Directors shall levy such assessments as are necessary, and shall proceed with the necessary repairs and restoration. The proceeds from the special assessments shall be added to the funds available for repair and reconstruction.
- (C) If any dispute shall arise as to whether "very substantial" damage has occurred, or as to the amount of special assessments required, a determination by at least two-thirds (2/3) of the Directors shall be conclusive, and shall be binding upon all persons.

**17.4 Application of Insurance Proceeds.** It shall be presumed that the first monies disbursed for repair and restoration are 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 may be distributed to the Unit owners or may be allocated to general purposes or reserves at the discretion of the Board of Directors.

**17.5 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 presumed that repair, reconstruction, or rebuilding has occurred within a reasonable period of time if substantial work is commenced within one (1) year following the damage or destruction, and is completed within twelve (12) months thereafter. In the case of "very

substantial" damage, the Condominium will be rebuilt. The Board of Directors shall commence and complete construction as soon as practicable under the circumstances.

**17.6 Plans and Specifications.** Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the original building, or according to different plans and specifications approved by the Board of Directors and the owners of at least a majority of the total voting interests. 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 institutional mortgagee, if any.

## **18. CONDEMNATION.**

**18.1 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 award, or the amount of that award shall be set off against any sums payable to that owner.

**18.2 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.

**18.3 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, but 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

**18.4 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 purposes of realizing just compensation.

**18.5 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:

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

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

**18.6 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:

- (A) Payment of Award. The fair market value of the Unit immediately prior to the taking shall be paid to the owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the owner and mortgagee.
- (B) 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 a condition for use by some or all Unit owners in a manner approved by the Board of Directors.
- (C) 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 Units. This shall be done by restating the shares of the continuing Units in the common elements as percentages of the total of the numbers representing the shares of these as they existed prior to the adjustment.
- (D) Assessments. If the amount of the award for the taking is not sufficient to pay the fair market value of the condemned Unit to the Unit owner and to condition the remaining portion of the Unit for use as a part of the common elements, the additional funds required for those purposes shall be raised by special assessment against Units that will continue as Units after the changes in the Condominium effected by the taking. The assessments shall be made in proportion to the shares of those Units in the common elements after the changes affected by the taking.
- (E) Arbitration. If the fair market value of a Unit prior to the taking cannot be determined by agreement between the Unit owner and the Association

within thirty (30) 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 certified real property 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 own appraiser.

**18.7 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 of the Unit.

**18.8 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 must be approved only by a majority of all Directors, and the consent of Unit owners or mortgagees is not required for any such amendment.

**19. TERMINATION.** The Condominium may be terminated at any time as provided in and in accordance with Section 718.117, Florida Statutes. If the Plan of Termination will result in less than the full satisfaction of the mortgage liens affecting the condominium parcels, then all mortgagees must approve the Plan of Termination.

**20. ENFORCEMENT.**

**20.1 Duty to Comply; Right to Sue.** Each Unit owner, his tenants and guests, and the Association shall be governed by and shall comply with the provisions of the Condominium Act, the governing documents, and the rules and regulations of the Association. 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: the Association; a Unit owner; anyone who occupies or is a tenant or guest in a Unit; or any member of the Board of Directors who willfully and knowingly fails to comply with these provisions.

**20.2 Waiver of Rights.** The failure of the Association or any member to enforce a right, provision, covenant, or condition which may be granted by the governing 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.

**20.3 Attorney 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, the governing documents, or the Association's rules and regulations, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such attorney fees as may be awarded by the Court.

**20.4 No Election of Remedies.** All rights, remedies, and privileges granted to the Association or Unit owners under the law and the governing documents shall 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 any other rights, remedies, or privileges that may be available.

**21. AMENDMENT OF DECLARATION.** Amendments to this Declaration shall be proposed and adopted in the following manner:

**21.1 Proposal.** Amendments to this Declaration may be proposed by the Board of Directors, or by written petition to the Board signed by the owners of at least one-fourth (1/4) 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 for which proper notice can still be given.

**21.3 Vote Required.** Except as otherwise provided by law, or by specific provision of the governing documents, this Declaration may be amended if the proposed amendment is approved by at least three-fourths (3/4) ) of the voting interests who are present and voting, in person or by proxy, at any annual or special meeting called for the purpose. Amendments may also be approved by written consent of three-fourths (3/4) of the total voting interests. The Board of Directors may amend the governing documents to correct scrivener's errors or omissions, and amend and restate the governing documents in order to consolidate into one document amendments previously adopted by the members or the Board of Directors. Amendments adopted by the Board shall occur at a duly noticed Board meeting, with adoption of the amendments set forth on the agenda.

**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 the President or Vice President 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 Collier County, Florida.

**21.5 Proviso.** No amendment may change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to the Unit, or change the proportion or percentage by which the owner of a parcel shares the common expenses and owns the common surplus, unless all record owners of the Unit, and any institutional mortgagee holding a mortgage on the Unit, consent in writing to the amendment. This proviso does not apply to changes caused by condemnation or a taking by eminent domain.

**22. MISCELLANEOUS.**

**22.1 Severability.** The invalidity or unenforceability in whole or in part of any covenant or restriction or any Section, Sub-Section, sentence, clause, phrase, word, or other provision of this Declaration, or any recorded Exhibit to this Declaration, shall not affect the remaining portions.

**22.2 Applicable Statutes.** The validity, application, and construction of this Declaration and its recorded Exhibits shall be governed by the laws of Florida, particularly the Florida Condominium Act, as it exists on the date hereof.

**22.3 Conflicts.** If there is a conflict between this Declaration and the Association's Articles of Incorporation or Bylaws, the Declaration shall control. If there is a conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation 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.

**22.5 Singular, Plural, and Gender.** Whenever the context so requires, the use of the plural shall include the singular and the plural, and the use of any gender shall be deemed to include all genders.

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

**22.7 DISCLAIMER AND RELEASE OF ALL LIABILITY. THE ASSOCIATION DISCLAIMS ALL LIABILITY FOR ALL PROPERTY DAMAGES OR PERSONAL INJURIES SUSTAINED BY THE UNIT OWNERS, RESIDENTS, GUESTS, OR INVITEES CAUSED BY THE NEGLIGENCE OF THE ASSOCIATION, ITS OFFICERS, DIRECTORS, COMMITTEE MEMBERS, PROPERTY MANAGEMENT COMPANY, SERVANTS, OR EMPLOYEES, AND THE UNIT OWNERS, BY ACCEPTANCE OF DEED FOR THE UNIT, DO FOR THEMSELVES, THEIR SUCCESSORS AND ASSIGNS, AGREE TO RELEASE, INDEMNIFY, DEFEND AND HOLD THE ASSOCIATION, ITS OFFICERS, DIRECTORS, COMMITTEE MEMBERS, PROPERTY MANAGEMENT COMPANY, SERVANTS, OR EMPLOYEES HARMLESS FROM ALL DAMAGES, CLAIMS, AND CAUSES OF ACTION, UNLESS IT HAS BEEN JUDICIALLY DETERMINED THAT THE ASSOCIATION IS GUILTY OF GROSS NEGLIGENCE OR A HIGHER DEGREE OF CULPABILITY. THIS DISCLAIMER AND RELEASE SPECIFICALLY INCLUDES DAMAGES AND CLAIMS RELATING TO LEAKS, BURST PIPES, SEWER BACK UP, MOLD, MILDEW, RADON, CHINESE DRY WALL, AND DEFECTS IN PAVED AND UNPAVED SURFACES, AS WELL AS ANY AND ALL OTHER POTENTIAL CAUSES OF HARM TO PERSONS OR PROPERTY. NOTHING HEREIN IS INTENDED TO PRECLUDE THE ASSOCIATION OR AN INJURED PARTY FROM ENFORCING RIGHTS UNDER INSURANCE POLICIES MAINTAINED BY THE ASSOCIATION.**

**EXHIBITS**

Exhibit "A" – Second Amended and Restated Articles of Incorporation

Exhibit "B" – Second Amended and Restated Bylaws

**SECOND AMENDED AND RESTATED ARTICLES OF INCORPORATION  
OF  
CHATEAUMERE CONDOMINIUM ASSOCIATION, INC.**

Chateaumere Condominium Association, Inc., a Florida corporation not-for-profit, was originally incorporated under the same name on September 26, 1979. The original Articles of Incorporation were amended and restated and recorded as an Exhibit to the Amended and Restated Declaration of Condominium of Chateaumere, a Condominium, recorded on April 22, 1992 in Official Records Book 1707, Page 2132, *et seq.*, of the Public Records of Collier County, Florida, and are hereby amended and restated in their entirety. All amendments included herein have been adopted pursuant to Section 617.0201(4), Florida Statutes, and there is no discrepancy between the corporation's Articles of Incorporation as heretofore amended and the provisions of these Second Amended and Restated Articles of Incorporation, other than the inclusion of amendments adopted pursuant to Section 617.0201(4) and the omission of matters of historical interest. The Second Amended and Restated Articles of Incorporation of Chateaumere Condominium Association, Inc., shall henceforth be as follows:

**ARTICLE I**

**NAME.** The name of the corporation is Chateaumere Condominium Association, Inc., (hereinafter referred to as "Association"), and its address is 6000 Pelican Bay Boulevard, Naples, Florida 34108.

**ARTICLE II**

**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 Chateaumere, a Condominium, located in Collier County, Florida.

The Association is organized and shall exist on a non-stock basis as a corporation not-for-profit under the laws of the State of Florida, and 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 under the laws of the State of Florida, except as expressly limited or modified by these Second Amended and Restated Articles of Incorporation (hereinafter referred to as "Articles"), the Second Amended and Restated Declaration of Condominium (hereinafter referred to as the "Declaration"), the Second Amended and Restated Bylaws (hereinafter referred to as the "Bylaws"), or the Florida Condominium Act; and it shall have all the powers and duties reasonably necessary to operate the Condominium pursuant to said Declaration, as it may hereafter be amended, including, but not limited to, the following:

- (A) To make and collect assessments against members of the Association to defray the costs, expenses, and losses of the Association, and to use the funds in the exercise of its powers and duties.



- (B) To protect, maintain, repair, replace, and operate the Condominium property and Association property.
- (C) To purchase insurance for the protection of the Association and its members.
- (D) To repair and reconstruct improvements after casualty loss, and to make further improvements of the Condominium property.
- (E) To make, amend, and enforce reasonable rules and regulations governing the use of the Units and common elements, and the operation of the Association.
- (F) To approve or disapprove the transfer, leasing, and occupancy of Units, as provided in the Declaration.
- (G) To enforce the provisions of the Condominium Act, the Declaration, these Articles, the Bylaws, and any Rules and Regulations of the Association, and to assess fines and impose suspensions of use and voting rights.
- (H) To contract for the management and maintenance of the Condominium and the Condominium property, and to delegate any powers and duties of the Association in connection therewith, except such as are specifically required by law or by the Declaration to be exercised by the Board of Directors or the membership of the Association.
- (I) To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the Condominium.
- (J) To borrow money as necessary to perform its other functions hereunder.

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

### **ARTICLE III**

#### **MEMBERSHIP.**

- (A) The members of the Association shall be the record owners of a fee simple interest in 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, shall be entitled to one vote in Association matters. The manner of exercising voting rights shall be as set forth in the Bylaws.

#### **ARTICLE IV**

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

#### **ARTICLE V**

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

#### **ARTICLE VI**

##### **DIRECTORS AND OFFICERS.**

- (A) The affairs of the Association shall be administered by a Board of Directors consisting of the number of Directors determined by the Bylaws, but not less than five (5) Directors, and in the absence of such determination shall consist of five (5) Directors.
- (B) Directors of the Association shall be elected by the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.
- (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 VII**

**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 a written petition to the Board, signed by at least one-fourth (1/4) of the voting interest of the Association.
- (B) **Procedure.** Upon any amendment to these Articles being proposed by said Board or Unit owners, such proposed amendment shall be submitted to a vote of the owners not later than the next annual meeting for which proper notice can be given.
- (C) **Vote Required.** Except as otherwise provided by Florida law, a proposed amendment shall be adopted if it is approved by at least two-thirds (2/3) of the voting interest at any annual or special meeting called for the purpose.

- (D) Effective Date. An amendment shall become effective upon filing with the Secretary of State and recording a certified copy in the Public Records of Collier County, Florida, with the formalities required by the Condominium Act.

## ARTICLE VIII

### INDEMNIFICATION.

- (A) Indemnity. The Association shall indemnify any Director, Officer or Committee Member who was or is a party to, or is threatened to be made a party to, any threatened, pending, or contemplated action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of service as a Director, Officer, or Committee Member of the Association, against expenses (including attorney's fees and appellate attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred in connection with such action, suit, or proceeding, unless (1) a Court of competent jurisdiction finally determines, after all appeals have been exhausted or not pursued, that such person did not act in good faith or in a manner they reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, that the person had reasonable cause to believe such conduct was unlawful, and (2) such Court also determines, specifically, that indemnification should be denied. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner that they reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that their conduct was unlawful. It is the intent of the membership of the Association, by the adoption of this provision, to provide the most comprehensive indemnification possible to their Directors, Officers, and Committee Members as permitted by Florida law.
- (B) Advances. The Association shall pay any expenses described above upon presentation by the affected Director, Officer, or Committee Member, as they accrue and in advance of the final disposition of such action, suit, or proceeding, and shall then seek repayment of such amounts if it shall ultimately be determined that the Director, Officer, or Committee Member is not entitled to be indemnified by the Association.
- (C) Miscellaneous. The indemnification provided herein may not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any Bylaw, agreement, vote of the members, or otherwise, and shall continue as to a person who has ceased to be a Director, Officer, or Committee Member, and shall inure to the benefit of the heirs and personal representatives of such person.

- (D) Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, Officer, Committee Member, employee, or agent of the Association, or a Director, Officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.
- (E) Amendment. Anything to the contrary herein notwithstanding, the provisions of this Article may not be amended without the approval, in writing, of all persons whose interest would be adversely affected by such amendment.

**SECOND AMENDED AND RESTATED BYLAWS  
OF  
CHATEAUMERE CONDOMINIUM ASSOCIATION, INC.**

1. **GENERAL.** The original Bylaws of Chateaumere Condominium Association, Inc., were amended and restated and recorded as an Exhibit to the Amended and Restated Declaration of Condominium of Chateaumere, a Condominium, recorded on April 22, 1992 in Official Records Book 1707, Page 2132, *et seq.*, of the Public Records of Collier County, Florida, and are hereby amended and restated in their entirety.

1.1 **Principal Office.** The principal office of the Chateaumere Condominium Association, Inc., (hereinafter referred to as the "Association"), is at 6000 Pelican Bay Boulevard, Naples, Florida 34108.

1.2 **Seal.** The seal of the Association shall be inscribed with the name of the Association, the year of its organization, and the words "Florida" and "not-for-profit." 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 Second Amended and Restated Declaration of Condominium, (hereinafter referred to as the "Declaration"), as it stands and as it may be further amended, shall apply to terms used in these Second and Amended and Restated Bylaws (hereinafter referred to as the "Bylaws").

2. **MEMBERS.**

2.1 **Qualifications.** The members of the Association shall be the record owners of legal title to the Units in Chateaumere, a Condominium. 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 in the member.
- (B) Approval by the Board of Directors as provided for in the Declaration.
- (C) Delivery to the Association of a copy of a recorded deed or other instrument evidencing title.
- (D) Delivery to the Association, if required, of a written designation of a primary occupant.

2.2 **Voting Interests.** The members of the Association are entitled to one (1) vote for each Unit owned by them. The total number of possible votes (the "voting interests") is equal to the total number of Units. The vote of a Unit is not divisible. The right to vote may not be denied because of delinquent assessments. If a Unit is owned by one natural person, the right to vote shall be established by the record title to the Unit. If a Unit is owned jointly by two or more

natural persons, that Unit's vote may be cast by any one of the record owners. If two or more owners of a Unit do not agree among themselves how their one vote shall be cast, that vote shall not be counted for any purpose. If the owner of a Unit is not a natural person, the vote of that Unit shall be cast by the Unit's primary occupant as designated in accordance with the Declaration.

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

**2.4 Change of Membership.** 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 Condominium during the period of membership, nor does it impair any rights or remedies that 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 in Collier County, Florida, each year during the month of March at a date, time, and place designated by the Board of Directors, for the purpose of transacting any business duly authorized to be transacted by the members. During the annual meeting, the ballots cast in the annual election of Directors shall be counted and the results announced.

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

**3.3 Notice of Meetings; Waiver of Notice.** Notice of all members meetings must state the date, time, and place of the meeting and include an agenda for the meeting. The notice must be mailed to each member at the address which appears on the books of the Association, or may be furnished by personal delivery. Each member is responsible for providing the Association of any change of address. The notice must be mailed or delivered 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's records as proof of mailing. If ownership of a Unit changes 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.

**3.4 Notice of Annual Meeting; Waiver of Notice.** Notice of the annual meeting shall be posted in a conspicuous place on the Condominium property 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 persons entitled to cast at least one-third (1/3) of the votes of the entire membership.

**3.6 Vote Required.** The acts approved by a majority of the votes cast at a duly called meeting of the members at which a quorum has been attained shall be binding upon all Unit owners for all purposes, except where a greater or different number of votes are expressly required by law or by any provision of the governing documents.

**3.7 Proxy Voting.** To the extent lawful, any person entitled to attend and vote at a members meeting may establish their presence and cast their vote by proxy. A proxy shall be valid only for the specific meeting for which 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, signed and dated 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 the original must be delivered to the Secretary by the appointed time of the meeting or adjournment thereof. 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.

**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, regardless of whether a quorum has been attained. If the date, time, and place of its continuance are announced at the meeting being adjourned then, it shall not be necessary to give further notice of the meeting. 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.

**3.9 Order of Business.** The order of business at members meetings shall be substantially as follows:

- (A) Call of the roll or determination of quorum.
- (B) Reading or disposal of minutes of last members meeting
- (C) Report of Officers
- (D) Reports of Committees
- (E) Unfinished business
- (F) New business
- (G) 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 all reasonable times, for a period of seven (7) years after the meeting. Minutes must be reduced to written form within thirty (30) days after the meeting at which they were taken.

**3.11 Parliamentary Rules.** Robert's Rules of Order (latest edition) shall guide the conduct of the Association meetings when not in conflict with the law, with the Declaration, or with these Bylaws. The presiding Officer 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.

**4. BOARD OF DIRECTORS.** The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Declaration, Articles, and these Bylaws, shall be exercised by the Board, subject to approval or consent of the Unit owners only when such is specifically required.

**4.1 Number and Terms of Service.** The number of Directors that shall constitute the whole Board of Directors shall be seven (7). All Directors shall be elected for two (2) year staggered terms. A Director's term will end at the annual election at which the successor is to be duly elected, unless the Director sooner resigns, or is recalled as provided in Section 4.5 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 4.4 below.

**4.2 Qualifications.** Each Director must be a member or the spouse of a member.

**4.3 Nominations and Elections.** On the day of each annual meeting the members shall elect, by written ballot, as many Directors as there are regular terms of Directors expiring. Notice of each annual election shall be given 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 may notify the Association, in writing, of their desire to be a candidate at least forty (40) days prior to the annual election. All eligible persons giving such notice shall be listed alphabetically on the ballot. A ballot shall be mailed to each owner at least thirty (30) days before each election. Directors shall be elected by a plurality of the votes cast. 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 vote for any candidate, it being the intent hereof that voting for Directors shall be non-cumulative. Any ties shall be broken by flipping a coin or drawing lots.

**4.4 Vacancies on the Board.** If the office of any Director becomes vacant for any reason, 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, 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.

**4.5 Removal of Directors.** Any Director may be removed, with or without cause, by a majority vote of the voting interests, by a written agreement in accordance with the procedures



set forth under in Chapter 718, Florida Statutes. Any Director who is removed from office is not eligible to stand again for election to the Board until the next annual election.

**4.6 Organizational Meetings.** The organizational meeting of a new Board of Directors shall be held within ten (10) days after the election of new Directors at such date, time, and place as may be fixed and announced by the Directors at the annual meeting at which they were elected.

**4.7 Other Meetings.** Meetings of the Board may be held at such time and place in Collier 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, or telegram at least two (2) days prior to the date named for such meeting.

**4.8 Notice to Owners.** All meetings of the Board of Directors shall be open to members, and notices of all Board meetings (including an agenda) shall be posted conspicuously on the Condominium property for at least forty-eight (48) continuous hours in advance of each Board meeting, except in an emergency. Notice of any Board meeting at which a budget will be adopted or amended shall conform to the requirements of Section 6.2 below. Notice of any Board meeting at which a non-emergency special assessment will be discussed, proposed, or approved shall conform to the requirements set forth in Section 6.6 below. The right of owners to attend Board meetings includes the right to speak on designated agenda items, subject to the rules of the Association as to the manner of doing so.

**4.9 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.

**4.10 Quorum of Directors.** A quorum at a Board meeting shall exist when at least a majority of all Directors are present in person at a duly called meeting. Directors may participate in any meeting of the Board by conference telephone call or other similar communicative arrangement whereby all persons present 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.

**4.11 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 governing documents or by applicable statutes. A Director who is present at a meeting of the Board shall be deemed to have voted in favor of any action taken, unless he voted against such action or abstained from voting because of an asserted conflict of interest. The vote or abstention of each Director present on each issue voted upon shall be recorded in the minutes.

**4.12 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 later time. If the date, time and place of the reconvened meeting are announced, then no further notice is required. Any business that might have been transacted at the meeting as originally called may be transacted at the reconvened meeting, provided a quorum is present.

**4.13 The Presiding Officer.** The President of the Association, or in his 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 majority vote of the Directors present.

**4.14 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 relating to the proper discharge of their respective duties.

**4.15 Committees.** The Board of Directors may appoint from time to time such standing or temporary committees as the Board may deem 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. If required by law, committee meetings shall be open to attendance by any Unit owner, and notice of committee meetings shall be posted in the same manner as required in Section 4.8 above for Board meetings.

**4.16 Emergency Powers.** In the event of any emergency, the Board of Directors may exercise the emergency powers described in this Section, and any other emergency powers authorized by Chapters 718 and 617, Florida Statutes, as amended from time to time, including:

- (A) The Board may 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 assistant during the period of the emergency, to accommodate the incapacity of any Officer of the Association.
- (B) The Board may relocate the principal office or designate alternative principal offices or authorize the Officers to do so.
- (C) During any emergency, the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any practicable manner, including publication or radio. The Director or Directors in attendance at such a meeting shall constitute a quorum.
- (D) Corporate action taken in good faith to further the ordinary affairs of the Association during what is reasonably believed to be an emergency shall bind the Association, and shall have the rebuttal presumption of being reasonable and necessary.
- (E) Any Officer, Director, or employee of the Association acting with a reasonable belief that his actions are lawful in accordance with these emergency Bylaws, shall incur no liability for doing so, except in the case of willful misconduct.
- (F) These emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

- (G) An "emergency" exists for purposes of this Section during the time when a quorum of the Board cannot readily be assembled because of the occurrence or imminent occurrence of a catastrophic event, such as a hurricane, act of war, civil unrest or terrorism, or other similar event. An "emergency" also exists during the period of time that civil authorities have declared that a state of emergency exists in, or have ordered the evacuation of, the area in which the Condominium buildings are located, or have declared that area a "disaster area." A determination by any two (2) Directors, or by the President, that an emergency exists shall have presumptive validity.

**4.17 Delinquent Directors.** Any Director who is more than ninety (90) days delinquent in his or her obligation to pay assessments to the Association is deemed to have resigned from office.

## **5. OFFICERS.**

**5.1 Officers and Elections.** The Executive Officers of the Association shall be a President, and a Vice-President, who must be Directors, and a Treasurer and a Secretary. The Officers shall be elected annually by the Board of Directors. Any Officer may be removed with or without cause by the majority vote of the Directors at any meeting. 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. If the Board so determines, there may be more than one Vice-President.

**5.2 President.** The President shall be the Chief Executive Officer of the Association and shall preside at all meetings of the members and Directors, shall be an ex-officio member of all standing committees, shall have the responsibility for the general management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect. The President shall execute bonds, mortgages, and other contracts requiring the 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, 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. The Secretary 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. The Secretary 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 governing documents. Any of the foregoing duties may be performed by an Assistant Secretary, if one has been designated.

**5.5 Treasurer.** The Treasurer shall be responsible for Association funds and securities, the keeping of full and accurate accounts 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, if one has been designated.

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

**6.1 Depository.** The Association shall maintain its funds in federally insured accounts in such financial institutions authorized to do business in the State of Florida, as shall be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board.

**6.2 Budget.** The Board of Directors shall adopt a budget of common expenses for each fiscal year. A copy of the proposed budget and a notice stating the date, time and place of the meeting of the Board at which the budget will be adopted shall be mailed to or served on the owner of each Unit not less than fourteen (14) days prior to the meeting. The proposed budget shall be detailed and shall show the amounts budgeted by income and expense classifications.

**6.3 Statutory Reserves for Capital Expenditures and Deferred Maintenance.** In addition to annual operating expenses, the proposed budget must include reserve accounts for capital expenditures and deferred maintenance as required by law. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing. The amount to be reserved shall be computed by a formula based upon the estimated life and replacement cost of each item. These reserves shall be funded unless the members subsequently determine by majority vote of those present and voting, in person or by proxy, at a duly called meeting to fund no reserves or less than adequate reserves for a fiscal year. The vote to waive or reduce reserves, if any is taken, may be taken only after the proposed budget has been mailed to the Unit owners as required in Section 6.2 above. Reserves funded under this paragraph, and all interest earned on such reserves, shall be segregated from operating funds, and shall be used only for the purposes for which they were reserved, unless their use for other purposes is permitted by law or is approved in advance by a majority of the voting interests present and voting, in person or by proxy, at a members meeting called for the purpose.

**6.4 Other Reserves.** 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 additional reserve accounts for contingencies, operating expenses, repairs, minor improvements or deferred maintenance. The purpose of these reserves 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 each year. These funds may be spent for any purpose approved by the Board.

**6.5 Assessments.** Regular annual assessments based on the adopted budget shall be paid in quarterly installments, in advance, due on the first day of January, April, July and October of each year. Written notice of each quarterly installment shall be sent to the members at least fourteen (14) days prior to the due date. Failure to send or receive such notice shall not excuse the obligation to pay. If an annual budget has not been adopted at the time the first quarterly installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the last quarterly payment, and shall be continued at such rate until a new budget is adopted.

**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 assessment will be considered, discussed, or proposed must be mailed to all Unit owners at least fourteen (14) days in advance. 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) or returned to the members as provided by law.

**6.7 Fidelity Bonds.** The Treasurer, all other Officers who are authorized to sign checks, and all other persons having access to or control of Association funds, shall be bonded in such amounts as may be required by law or otherwise determined by the Board of Directors. The premiums on such bonds shall be a common expense.

**6.8 Financial Statements.** Not later than ninety (90) days after the close of each fiscal year, the Board shall prepare and distribute to the owners of each Unit, financial statements meeting the minimum standards of the Condominium Act, showing in reasonable detail the financial condition of the Association as of the close of its fiscal year, detailed by accounts.

**6.9 Fiscal Year.** The fiscal year for the Association shall begin on the first day of January of each calendar year. The Board of Directors may change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed in the Internal Revenue Code of the United States of America.

**7. RULES AND REGULATIONS; USE RESTRICTIONS.** The Board of Directors may, from time to time, adopt and amend administrative rules and regulations governing the use, maintenance, management, and control of the common elements, the operation of the Association, and the use of the Units. Copies of such rules and regulations shall be furnished to each Unit owner. Any rule or regulation created and imposed by the Board must be reasonably related to the promotion of health, happiness, and peace of mind of the Unit owners, and uniformly applied and enforced.

**8. COMPLIANCE AND DEFAULT; REMEDIES.** In addition to remedies provided in the Declaration, the following provisions shall apply:

**8.1 Fines and Suspensions.** The Board of Directors may levy fines and/or impose suspensions against members, a member's tenants or guests, or both, who commit violations of law, the provisions of the governing documents, or the rules and regulations. Fines shall be in amounts deemed necessary by the Board of Directors to deter future violations. The maximum fine for a single violation shall be \$100.00. The maximum fine for a continuing violation shall not be limited to \$1,000.00, except if the law requires such limit. If allowed by law, fines shall be secured by a lien on the owner's Unit. Suspensions of the use of common areas, facilities, and common non-essential services (e.g. bulk cable television and/or internet) may be imposed for a reasonable period of time to deter future violations. The procedure for imposing fines or suspending use rights shall be as follows:

- (A) **Notice.** The party against whom the fine and/or suspension is sought to be levied or imposed shall be afforded an opportunity for a Hearing after reasonable notice of not less than fourteen (14) days, which notice shall include:
- (1) A statement of the date, time, and place of the Hearing, or instruction on how to request a Hearing;
  - (2) A specific designation of the provisions of the law, the governing documents, or the rules that are alleged to have been violated;
  - (3) A short and plain statement of the specific facts giving rise to the alleged violation(s); and
  - (4) The possible amounts of any proposed fine and/or possible use rights of common areas or facilities to be suspended.
- (B) **Hearing.** At the Hearing, the party against whom the fine and/or suspensions may be levied or imposed shall have a reasonable opportunity to respond, to present evidence, to provide written and oral argument on all issues involved, and to review, challenge, and respond to any evidence or testimony presented by the Association. The Hearing shall be conducted before a panel of three (3) owners appointed by the Board, none of whom may then be serving as Directors or Officers, or who are employees of the Association, or the spouse, parent, child, brother, or sister of a Director, Officer, or employee. If the committee, by majority vote, does not agree with the proposed fine and/or suspension, it may not be levied or imposed. If the committee agrees with the proposed fine and/or suspension, the Board of Directors shall levy or impose same.

**8.2 Fines and Suspensions Without Hearing.** The foregoing notwithstanding, unless prior notice and a Hearing is specifically required by law, no prior notice or opportunity or a Hearing is required for the imposition of a fine or suspension upon any member because of the failure of the member to pay assessments or other charges when due.

**8.3 Suspension of Voting Rights.** If an owner is more than ninety (90) days overdue in payment of assessments or other financial obligation to the Association, then the owner's voting rights may be suspended until such time as the owner's account is paid in full.

**8.4 Correction of Health and Safety Hazards.** Any violation of the Association's rules that creates conditions of the Unit that are deemed by the Board of Directors to be a hazard to the public health or safety, may be dealt with immediately as an emergency matter by the Association, and the cost thereof shall be charged to the Unit owner.

**8.5 Mandatory Non-Binding Arbitration.** In the event of any "dispute," as defined in Section 718.1255, Florida Statutes, between a Unit owner and the Association, the parties must submit the dispute to mandatory, non-binding arbitration under the rules of the Division of Florida Condominiums, Timeshares, and Mobile Homes, prior to filing suit over the dispute matters. Nothing herein shall be construed to require arbitration of disputes related to the levy or collection of fees or assessments.

**8.6 Availability of Remedies.** Each member, their 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 that 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 free from unreasonable restraint and annoyance.

**9. AMENDMENT OF BYLAWS.** Amendments to these Bylaws shall be proposed and adopted in the following manner:

**9.1 Proposal.** Amendments to these Bylaws may be proposed by a majority of the Board or upon written petition signed by at least one-fourth (1/4) of the voting interests.

**9.2 Procedure.** Upon any amendment or amendments to these Bylaws being proposed by the Board or Unit owners, such proposed amendment or amendments shall be submitted to a vote of the owners not later than the next annual meeting for which proper notice can still be given.

**9.3 Vote Required.** Except as otherwise provided by law, or by specific provision of the governing documents, a proposed amendment to these Bylaws shall be adopted if it is approved at least two-thirds (2/3) of the voting interests present and voting, in person or by proxy, at any annual or special meeting called for the purpose, provided that notice of the proposed amendment has been given to the members in accordance with law.

**9.4 Recording; Effective Date.** A copy of each amendment shall be attached to a Certificate of Amendment stating that the amendment was duly adopted at an annual meeting or a special members meeting, give the date of the meeting at which the amendment was adopted, and identify the Official Records Book and Page of the Public Records where the Declaration of Condominium was first originally recorded. The Certificate shall be executed by Officers of the Association with the formalities of a deed. The amendment shall be effective when the fully-

executed Certificate of Amendment and the copy of the amendment are recorded in the Public Records of Collier County, Florida.

**10. VOTING IN MATTERS RELATED TO FOUNDATION.** The members of the Association, by virtue of ownership of a dwelling unit within Pelican Bay, are entitled to one vote in the affairs of The Pelican Bay of Naples Foundation, Inc., for each Unit they own. The bylaws of the Foundation require condominium associations within Pelican Bay to authorize a representative to cast collective votes of the Unit owners at meetings of the Foundation members. The President of Chateaumere Condominium Association, or the President's designee, shall be the authorized representative of the Association to cast the collective 140 votes of the members of the Association at any regular, annual, or special meeting of the Foundation. If the President has sufficient notice of the nature of matters to be voted on at a Foundation meeting, the President may instruct the Secretary to poll the members of the Association. Upon receipt of the results of such poll, the President or the President's designee shall cast the collective 140 votes of the members in a block supporting the point of view voted by the majority who responded to the poll. Whenever the President does not have the Secretary conduct such a poll, the President or the President's designee shall cast the collective 140 votes at the Foundation meeting in the manner directed by the Board of Directors, or if such direction is not provided, in the manner determined by the President or the President's designee.

**11. MISCELLANEOUS.**

**11.1 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.

**11.2 Severability.** Should any portion of these Bylaws be void or unenforceable, the remaining provisions of the Bylaws shall remain in full force and effect.

**11.3 Conflict.** If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws, the Declaration, or Articles of Incorporation, the provisions of the Declaration or Articles shall prevail over the provisions of these Bylaws.