

Prepared by and returned to:

Becker & Poliakoff, P.A.
Sarah E. Spector, Esquire
12140 Carissa Commerce Court, Suite 200
Fort Myers, FL 33966

CERTIFICATE OF RECORDATION

SECOND AMENDED AND RESTATED DECLARATION OF CONDOMINIUM ANNA MARIA CONDOMINIUM

SECOND AMENDED AND RESTATED ARTICLES OF INCORPORATION SECOND AMENDED AND RESTATED BYLAWS

ANNA MARIA CONDOMINIUM ASSOCIATION, INC.

I HEREBY CERTIFY that the attached Amended and Restated Condominium Documents were duly adopted by the Association membership at the duly noticed Annual Members' Meeting of the Association on the 7th day of February 2012. The original Declaration of Condominium for Anna Maria Condominium is recorded at O.R. Book 1198, at Page 418 *et seq.*, of the Lee County Public Records. The Amended and Restated Declaration of Condominium for Anna Maria Condominium is recorded at O.R. Book 2567, at Page 1592 *et seq.*, of the Lee County Public Records.

The Second Amended and Restated Declaration of Condominium of Anna Maria Condominium is attached hereto. All previous site plans of record are incorporated by reference, with photocopies recorded for reference as Exhibit "A". The Second Amended and Restated Articles of Incorporation of Anna Maria Condominium Association, Inc. are attached as Exhibit "B". The Second Amended and Restated By-Laws of Anna Maria Condominium Association, Inc. are attached as Exhibit "C". The Rules and Regulations of the Association are not herewith recorded. The Rules and Regulations may be amended without recordation of said changes in the public records. The current version of the Rules and Regulations are available from the Association for interested parties.

Page 1 of 2

WITNESSES:
(TWO)

ANNA MARIA CONDOMINIUM
ASSOCIATION, INC.

Vickie Calligan

Signature

VICKIE CALLIGAN
Printed Name

Maria Enny

Signature

MARIA ENNY
Printed Name

STATE OF Florida)
) SS:
COUNTY OF Lee)

BY: Linda Ledel

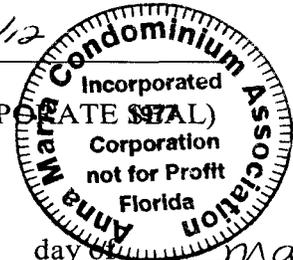
Linda Ledel, President

Date: 3/12/12

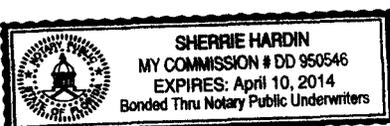
ATTEST: Milenna Hershey

Milenna Hershey, Secretary

Date: 3/12/12



The foregoing instrument was acknowledged before me this 12 day of March 2012, by Linda Ledel as President of Anna Maria Condominium Association, Inc., a Florida Corporation, on behalf of the corporation. She is personally known to me or has produced (type of identification) FID as identification.



Sherrie Hardin
Notary Public

Sherrie Hardin
Printed Name

My commission expires: 4/10/14

ACTIVE: 3719392_1

**SECOND AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM
OF
ANNA MARIA CONDOMINIUM**

RECITALS:

In a Declaration of Condominium recorded at O.R. Book 1198, Page 418, *et seq.* of the Lee County Public Records on May 19, 1977, the Condominium Developer did submit to condominium ownership pursuant to Chapter 718, Florida Statutes, known as the Condominium Act, that property situated in Lee County, Florida, more particularly described as follows:

LOTS 1 through 9 inclusive, Block 383, and LOTS 50 through 56 inclusive, Block 384, all in Unit 7, CAPE CORAL, according to a plat thereof recorded in Plat Book 12, page 101 to 128, Public Records of Lee County, Florida.

Said Declaration was subsequently amended as follows:

Amendment recorded at O.R. Book 1229, Page 1303 *et seq.*, Lee County Public Records;

Amendment recorded at O.R. Book 1236, Page 1125 *et seq.*, Lee County Public Records;

Amendment recorded at O.R. Book 1289, Page 1608 *et seq.*, Lee County Public Records;

Amendment recorded at O.R. Book 2567, Page 1592 *et seq.*, Lee County Public Records (Amended and Restated Condominium Documents); and

Amendment to the By-Laws recorded at O.R. Book 3416, Page 3190 *et seq.*, Lee County Public Records.

The submission of the land to the condominium form of ownership by that document is and will remain effective. By adoption of this Second Amended and Restated Declaration of Condominium (hereinafter "Declaration"), the Association Members hereby adopt certain amendments to the Declaration of Condominium and amendments thereof and hereby restate the Declaration in its entirety. By adoption of this Declaration, the Members of the Association ratify governance of the property described above and in Exhibit "A" hereto under the condominium form of ownership and the provisions of the Condominium Act, as defined in Section 1.1 hereof.

1. DEFINITIONS. As used herein or elsewhere in the Condominium Documents, unless otherwise provided, the terms used shall be as defined in the Act and as herein provided:

1.1 “Act” or “Condominium Act” means the Condominium Act (Chapter 718, Florida Statutes, 2011), as it now exists or as it may be amended from time to time, including the definitions therein contained.

1.2 “Articles” means the Articles of Incorporation as attached hereto as Exhibit “B”, as they may be amended from time to time.

1.3 “Assessment” means a share of the funds required for the payment of Common Expenses, which from time to time is assessed against the Units.

1.4 “Association” means ANNA MARIA CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation, organized to operate, maintain and administer ANNA MARIA CONDOMINIUM.

1.5 “Association Property” means all property owned by the Association for the use and benefit of the Unit Owners.

1.6 “Board of Directors” or “Board” or “Directors” means the representative body which is responsible for the administration of the Association’s affairs and is the same body referred to in the original Declaration of Condominium as the “Board of Governors” and is sometimes referred to in the Act as the “Board of Administration.”

1.7 “Building” means the structures in which the Units and portions of the Common Elements are located.

1.8 “By-Laws” mean the By-Laws of the Association as attached hereto as Exhibit “C”, as they may be amended from time to time.

1.9 “Charge” means any legal or equitable indebtedness or sums owed to or due to the Association, incurred by, or on behalf of, a Unit Owner, other than Assessments for Common Expenses. Said obligations may arise by oral or written contract, by law or in equity, or may be created by these Condominium Documents.

1.10 “Common Elements” means and includes:

1.10.1 The portions of the Condominium Property not included within the Units.

1.10.2 Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to Units and the Common Elements.

1.10.3 An easement of support in every portion of a Unit which contributes to the support of the Building, including but not limited to all load bearing interior walls within the Units.

1.10.4 The property and installations required for the furnishing of utilities and other services to more than one Unit or to the Common Elements.

1.10.5 Any other parts of the Condominium Property designated as Common Elements in this Declaration.

1.11 “Common Expenses” means those expenses for which Unit Owners are liable to the Association, including but not limited to expenses of administration, maintenance and operation, repair and replacement of Common Elements, and such other expenses as may be declared expenses either by this Declaration, the Articles of Incorporation, the By-Laws or by the Association. Bulk interior pest control for Units, if provided by the Association is a Common Expense. Common Expenses include, but are not limited to, such items as cost of premiums for property and public liability insurance, repairs, replacements and expenses of upkeep, lawn service, utility bills that are not separately metered to individual Units, pool service, recreational facilities and activities, janitor service, accounting and legal fees, wages and fees for managerial and other services, and reasonable and adequate reserves, all as may be required in the maintenance and management of this Condominium. The expenses of communications services as defined in Chapter 202, information services, or Internet services, are specifically considered a Common Expense, if so designated by the Board. Common Expenses also include reasonable insurance for Directors and Officers, road maintenance and operation expenses, and security services, which are reasonably related to the general benefit of the Unit Owners even if such expenses do not attach to the Common Elements or Condominium Property. Common Expenses also include the expenses of any items or services required by any federal, state, or local governmental entity to be installed, or supplied to the Condominium Property by the Association, including, but not limited to, fire safety equipment or water and sewer service where a master meter services the Condominium.

1.12 “Common Surplus” means the excess of all receipts of the Association, including, but not limited to, Assessments, rents, profits and revenues on account of the Common Elements, above the amount of the Common Expenses. Common Surplus shall be determined in the same manner as Common Expenses.

1.13 “Condominium Documents” means this Declaration; the Surveyor’s Plat and Site Plans, hereinafter collectively referred to as “the Plat” or “Condominium Plat”, copies of which are attached hereto as Exhibit “A”; Articles of Incorporation of Anna Maria Condominium Association, Inc. attached hereto as Exhibit “B”; By-Laws attached hereto as Exhibit “C”; and Rules and Regulations. The Rules and Regulations need not (but may) be recorded in the County Public Records in order to be valid.

1.14 “Condominium Parcel” means a Unit together with the undivided share in the Common Elements which is appurtenant to said Unit and when the context permits, the term includes all of the appurtenances to the Unit.

1.15 “Condominium Property” means the land and property interests subjected to condominium ownership under this Declaration, all improvements on the land as depicted in the Surveyor’s Plat, or replacement thereof of like kind and quality, and alterations or additions made to the Common Elements or Association Property by the Association and all easements and rights appurtenant thereto intended for use in connection with the Condominium. Additions or alterations made to the Units or Common Elements by Unit Owners (or their predecessors in title) are not part of the Condominium Property. References in the Condominium Documents to Condominium Property shall include Association Property, unless indicated otherwise.

1.16 “County” means the County of Lee, State of Florida.

1.17 “Declaration” or “Declaration of Condominium” means this instrument, and as it may be amended from time to time.

1.18 “Division” means the Division of Florida Condominiums, Timeshares and Mobile Homes of the Department of Business and Professional Regulation.

1.19 “Domestic Partners” means two adults who have chosen to share their lives in a committed relationship that includes a mutual and exclusive commitment to each other’s well-being, wherein each partner shares the same permanent address, have no blood relationship that would preclude marriage in the State of Florida, are of the age of legal majority, are jointly responsible for each other’s common welfare, share financial interdependence and mutual obligation akin to those of marriage. Domestic Partners shall be considered as married individuals for the purpose of the Declaration.

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

1.20.1 One natural person, his spouse or Domestic Partner, if any.

1.20.2 Not more than two natural persons not meeting the requirement of Section 1.20.1 above, but who customarily and continuously reside together as a single housekeeping Unit.

1.20.3 The reference to “natural” herein is intended to distinguish between an individual and a corporation or other artificial entity. “Family member” is a person who resides in a Unit as part of the Owner’s Family, but is not a title holder.

1.21 “Fractional Ownership” or “Unit Sharing” means any arrangement (whether written or verbal) whereby multiple individuals, artificial entities, or other combinations acquire title to a Unit (or any other possessory or use right in a Unit) with the intention of allocating use rights among legal or beneficial owners, whether pursuant to verbal or written agreements, regarding the sharing of use and possession rights for a Unit.

1.22 “Guest” means any person who is not the Unit Owner or a Tenant or a member of the Owner’s or Tenant’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.

1.23 “Insurable Improvements” shall mean the “Buildings” as defined in Section 1.7 of this Article, less upgrades or additions by Unit Owners (or their predecessors in title) and those portions of the Condominium Property required by the Act to be insured by the Association. If a Unit Owner has replaced any glass with impact glass which meets the applicable code at the time of such replacement, such glass and its related framework shall be considered part of the Insurable Improvements, unless prohibited by law.

1.24 “Invitee” a person or persons allowed entry for the purpose of conducting business with a Unit’s occupant, or otherwise entering the Condominium Property on a temporary basis at the express or implied consent of the Unit Owner, including contractors, workmen, delivery persons, domestic assistants and health care assistants.

1.25 “Lease,” when used in the context of the renting of Units, means the grant by a Unit Owner of a right of use of the Owner’s Unit for consideration.

1.26 “Lien for Charges” means a lien which is recorded to secure a Charge.

1.27 “Limited Common Elements” means those Common Elements which are reserved for the use of a certain Unit or Units to the exclusion of all other Units, as specified in the Declaration. Unless the context requires otherwise, all references in this Declaration to Common Elements shall include Limited Common Elements. Whenever a portion of the Condominium Property naturally and exclusively services a particular Unit, and where the area in question lies outside of the boundaries of the Unit, the delegation of maintenance responsibility for the area (by way of example, but not limitation, air conditioning compressors) shall serve to define the area as a Limited Common Element.

1.28 “Limited Common Expenses” means those expenses affiliated with the maintenance, repair, replacement, or reconstruction after casualty of a Limited Common Element, the costs of which are assessed only against the benefiting Unit Owner(s), as authorized by Section 718.113(1) of the Act, and if so provided in this Declaration.

1.29 “Member” means the record Owner(s) of legal title to a Unit.

1.30 “Occupant” when used in connection with a Unit, means a person who is physically present in a Unit on two or more consecutive days, including staying overnight for one night.

1.31 “Primary Occupant” means a natural person designated 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 Domestic Partners, or by a trustee or a corporation or other entity which is not a natural person, except where the content clearly indicates otherwise, the term "Owner" shall include "Primary Occupant".

1.32 "Rules and Regulations" means those rules and regulations promulgated by the Board of Directors, governing the use, occupancy, alteration, maintenance, transfer and appearance of Units, Common Elements and Limited Common Elements, and the operation and administration of the Association, subject to any limits set forth in the Declaration of Condominium.

1.33 "Tenant" or "Lessee" means a person occupying a Unit, other than the Owner, whether pursuant to a verbal or written agreement, where said occupancy by the non-owner involves consideration, the payment of money, the exchange of goods and services, etc. The term "Tenant" shall be used interchangeably with "Lessee".

1.34 "Unit" means a part of the Condominium Property subject to exclusive ownership.

1.35 "Unit Owner" or "Owner" means the record Owner of a Condominium Parcel.

1.36 "Utility Services" as used in the Condominium Act and as construed with reference to this Condominium, and as used in the Declaration and By-Laws, shall include but not be limited to electric power, gas, hot and cold water, heating, refrigeration, air conditioning and garbage and sewage disposal.

1.37 "Voting Interests" means and refers to the arrangement established in the Condominium Documents by which the Owners of each Unit collectively are entitled to one vote in the Association matters. There are 32 Units, so the total number of Voting Interests is 32.

2. STATEMENT OF CONDOMINIUM DECLARATION. Anna Maria Builders, Inc., a Florida corporation, submitted the property described in Exhibit "A" hereto and as described above to condominium ownership in accordance with Florida Statutes.

3. CONDOMINIUM NAME. The name by which this Condominium is identified is "Anna Maria Condominium."

4. UNIT IDENTIFICATION. The identification of each Unit shall be by number and shall be as indicated on the Plat, Exhibit "A."

5. SURVEY AND GRAPHIC DESCRIPTION. A survey of the land previously submitted to condominium ownership and a plat thereof describing each Unit, Common Elements and their relative location and the approximate dimensions of each Unit are as shown on the Plat which is attached as Exhibit "A".

6. CONDOMINIUM UNITS.

6.1 Real Property. Each residential Unit, together with the space within it and together with all appurtenances thereto, shall for all purposes constitute a separate parcel of real property which may be owned in fee simple and which may be conveyed, transferred and encumbered in the same manner as any other parcel of real property, independently of all other parts of the Condominium Property, subject only to the provisions of this Declaration.

6.2 Unit Boundaries. Each Unit shall be bounded as to both horizontal and vertical boundaries subject to such encroachments as are created by construction, settlement or movement of the buildings, or permissible repairs, reconstruction or alterations. Said boundaries are intended to be as follows, and shall be determined in the following manner:

6.2.1 Horizontal Boundaries – The horizontal boundaries of each Unit shall be:

6.2.1.1 Upper Boundary:

6.2.1.1.1. Second Floor Units – the plane of the bottom chords of the roof trusses.

6.2.1.1.2. Ground Floor Units – the soffit of the pre-stressed concrete slabs supporting the second floor.

6.2.1.2 Lower Boundary:

6.2.1.2.1. Second Floor Units – the top surface of the pre-stressed concrete floor slabs.

6.2.1.2.2. Ground Floor Units – the top surface of the reinforced concrete slab on grade.

6.2.2 Vertical Boundaries – The vertical boundaries of each shall be:

6.2.2.1 Exterior boundaries – The exterior of the outside walls of the Unit building except where there is attached to or in existence as a part of the building a balcony serving only the Unit being bounded, in which event the boundaries shall be such as will include all such structures.

6.2.2.2 Between Units joined by a common wall – the plane formed by the center line of such wall between the Units.

6.2.2.3 Between Units and common use areas – the plane formed by the exterior of the Unit wall between the Unit and said corridors or common use areas.

7. APPURTENANCES TO EACH UNIT. The ownership of each Unit shall include, and there shall pass with each Unit as appurtenances thereto whether or not separately described, all of the rights, title and interest including but not limited to:

7.1 Common Elements. An undivided share of the Common Elements, such undivided share to be that portion set forth in Article 11 hereof.

7.2 Easements for the Benefit of the Unit. Provided, however, that the Association may suspend the right to use Common Elements or Association Property and suspend other rights or services as permitted by the Act.

7.3 Association Membership and interest in funds and assets held by the Association.

7.4 Limited Common Elements. The right to exclusive use of the Limited Common Elements designated by this Declaration.

7.5 Easement to Air Space. The appurtenances shall include an exclusive easement for the use of the air space occupied by the Unit as it exists at any particular time and as the Unit may be altered or reconstructed from time to time.

8. USE AND POSSESSION. A Unit Owner is entitled to the exclusive use and possession of his Unit. He is entitled to use the Common Elements and Association Property in accordance with the purposes for which they are intended, but no use may unreasonably interfere with the rights of other Unit Owners or other persons having rights to use the Condominium Property. No Unit may be divided or any fractional portion sold, leased or otherwise transferred. The use of the Units and Common Elements shall be governed by the condominium documents and by the rules and regulations adopted by the Association through its Board of Directors.

9. 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, unless released in connection with termination of 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 the Unit Owners with respect to such easements.

9.1 Utility and Other Easements. The Association, through the Board of Directors, has the power, without joinder of any Unit Owner, to grant, modify or move easements such as electric, gas, cable television, or other communications, information or internet services, or other access, utility or service easements, or relocate any existing easements, in any portion of the Condominium Property or Association Property, as the Board shall deem necessary or desirable for the proper operation and maintenance of the Condominium. Such easements, or the

relocation of existing easements, may not prevent or unreasonably interfere with the use of the Units. The Association, through the Board of Directors, may also transfer title to utility-related equipment, facilities or material, and may take any other action to satisfy the requirements of any utility company or governmental agency.

9.2 Encroachments. If any Unit encroaches upon any of the Common Elements or upon any other Unit for any reason other than the intentional act of the Unit Owner, or if any Common Element encroaches upon any Unit, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.

9.3 Ingress and Egress. A non-exclusive easement shall exist in favor of each Unit Owner and Occupant, their respective Guests, Tenants, and Invitees for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portion 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.

9.4 Maintenance, Repair and Replacement. Easements shall exist through, over and beneath the Units and Common Elements for maintenance, repair and replacement of the Units and Common Elements. Such access to the Units shall be only during reasonable hours except that access may be had at any time in case of emergency.

9.5 Support. Every portion of a Unit contributing to the support of the Unit Building shall be burdened with an easement of support for the benefit of all other Units and Common Elements in the Building.

10. THE ASSOCIATION. The administration and management of the Condominium shall be by the Association, which shall have by and through its Officers and Directors, such powers, authority and responsibilities as are vested in the Officers and Directors of a corporation not-for-profit under the laws of the State of Florida, including but not limited to those set forth more specifically elsewhere in the Condominium Documents. The Association shall have authority to enter into management and other agreements concerning the matters of common interest through its Officers. The management of the Association and election of the Members to the Board of Directors shall be as set forth in the By-Laws.

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

Second Amended and Restated Declaration of Condominium

Page 9 of 45

LAW OFFICES
BECKER & POLIAKOFF, P.A.
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966
TELEPHONE (239) 433-7707

10.2 Rights and Powers. Without limiting the foregoing, the Association shall have the following rights and powers:

10.2.1 Access. The irrevocable right of access to each Unit and its appurtenant Limited Common Elements during reasonable hours as may be necessary for the maintenance, repair or replacement of the Condominium Property, or at any time for making emergency repairs therein necessary to prevent damage to the Common Elements or to any other Unit or Units, or to determine compliance with the terms and provisions of this Declaration, the exhibits annexed hereto, and the Rules and Regulations adopted pursuant to such documents, as the same may be amended from time to time. A pass key must be provided by the Unit Owner to the Association for each Unit entry door, and as may be applicable air conditioning or utility room or closet, and storage unit. The Association may utilize a master key system. When a Unit Owner must maintain, repair or replace portions of the Condominium Property as provided herein, and which requires access to another Unit for said purpose, the Unit Owner shall have reasonable right of access which shall be administered through the Association. Such Unit Owner shall be obligated to repair any damage to the Condominium Property.

10.2.2 Assessments and Charges. The power to make and collect regular and special Assessments and other Charges against Unit Owners and to lease, maintain, repair, and replace the Common Elements and Association Property.

10.2.3 Delegation. The power to enter into contracts with others, for valuable consideration, for maintenance and management of the Condominium Property and Association Property and in connection therewith, or to its Officers and agents, to delegate the powers and rights herein contained, including, without limitation, the making and collecting of Assessments and other Charges against Unit Owners, and perfecting liens for non-payment thereof.

10.2.4 Regulations. The power to adopt and amend Rules and Regulations covering the details of the operation of the Association and use of the Condominium Property and Association Property.

10.2.5 Acquisition or Transfer of Real Property; Leasing Common Elements and Association Property. The power to acquire real property and transfer real property owned by the Association or otherwise convey and mortgage real property for the use and benefit of its Members with the same approval of Unit Owners as needed to amend the Declaration. No Unit Owner approval shall be required to acquire, purchase, or mortgage a Unit in connection with foreclosure of a lien or deed in lieu of foreclosure, nor to dispose of such Unit. No Unit Owner approval shall be required in connection with the Association's purchase of a Unit pursuant to Article 18 hereof. Leasing of Units, Common Elements or Association Property may be approved by the Board of Directors, as well as the lease fees, use fees, and other fees permitted by the Act or the Condominium Documents.

10.2.6 Membership Agreements. The power to enter into agreements to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as

country clubs, golf courses, marinas, and other recreational facilities with the same approval of Unit Owners as needed to amend the Declaration.

10.2.7 Fees for Use of Common Elements; Other Fees and Deposits. The power to set fees, pursuant to Section 718.111(4) of the Act, the Board of Directors shall have the authority to set use fees for private use of Common Elements or Association Property, as well as the regulations and policies pertaining to such use. The Board of Directors may also establish other fees and deposits determined necessary by the Board. Without limitation, same include: use fees and/or clean-up fees; fees for the issuance of parking passes or decals; fees for architectural/engineer review of renovation/alteration plans; contractor damage deposits; and internet service, facsimile service and other services using Association equipment. Nothing in this Declaration shall be construed as obligating the Association to provide any of the aforementioned services.

10.2.8 Lease of Association Property or Common Elements. The power to lease Association Property or Common Elements, as authorized by the Board of Directors, including, but not limited to, the lease of Building roof areas and other Common Elements for antennas or other telecommunications and similar equipment. No use fee may be charged against a Unit Owner for use of the Common Elements or Association Property except fees set by the Board pertaining to an Owner having exclusive use of the Common Elements or Association Property, or as agreed by the Association and the party leasing Association Property or Common Elements, pursuant to an oral or written Lease agreement, or fees authorized by this Declaration of Condominium.

10.2.9 Limitation Upon Liability of Association. Notwithstanding the duty to maintain, repair, replace, insure or reconstruct parts of the Condominium Property, the Association is not liable to Unit Owners or any other person for injury or damage, other than for the cost of maintenance and repair of items for which the Association is otherwise responsible, caused by any latent or unknown condition of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any alterations or improvements done by or on behalf of any Unit Owners, regardless of whether or not same shall have been approved by the Association pursuant to the provisions hereof.

Notwithstanding anything contained herein or in the Condominium Documents or any other document governing or binding the Association, the Association shall not be liable or responsible for, or in any manner be a guarantor or insurer of, the health, safety or welfare of any Owner, occupant or user of any portion of the Condominium Property, including, without limitation, residents and their Families, Guests, Tenants, Invitees or for any property of any such persons. Without limiting the generality of the foregoing:

10.2.9.1 It is the express intent of the Condominium Documents that the various provisions thereof which are enforceable by the Association, and which govern or regulate the use of the Condominium Property, have been written, and are to be interpreted and

Second Amended and Restated Declaration of Condominium

Page 11 of 45

enforced, for the sole purpose of enhancing and maintaining the enjoyment of the Condominium Property and the value thereof; and

10.2.9.2 The Association is not empowered, and has not been created, to act as an entity which enforces or ensures the compliance with the laws of the United States, State of Florida, Lee County, and/or any other jurisdiction or the prevention of tortious or criminal activities; and

10.2.9.3 Any provisions of the Condominium Documents setting forth the uses of Assessments which relate to health, safety and or welfare shall be interpreted and applied only as limitations on the uses of Assessment funds and not as creating a duty of the Association to protect or further the health, safety or welfare of any person(s), even if Assessment funds are chosen to be used for any such reason.

Each Unit Owner and each other person having an interest in or lien upon, or making any use of, any portion of the Condominium Property shall be bound by this provision and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the Association arising from or connected with any matter for which the liability of the Association has been disclaimed in this provision.

As used in this section, "Association" shall include within its meaning all of the Association's Directors, Officers, Committee Members and other persons the Association may be required to indemnify, to the extent and limit of such indemnity, and without waiving, reducing or otherwise modifying coverage obligations or subrogation rights of any insurer.

10.2.10 Disclaimer, Waiver, and Release of Claims Regarding Mold and Mildew. The Unit Owner acknowledges that the Condominium is located in a hot, humid climate, which is conducive to the growth of mold and/or mildew. The Board of Directors shall have the authority to adopt reasonable Rules and Regulations regarding maximum or minimum temperatures for Units and/or require that the air conditioning to the Units be set within certain temperature and/or humidity ranges and may require Owners to take such further actions as the Board deems advisable to control humidity and mold and/or mildew growth.

The Association shall not be responsible for the prevention of mold and/or mildew or any damages, including, but not limited to any special or consequential damages, property damages, personal injury, loss of income, emotional distress, death, loss of use, loss of income diminution or loss of value of the Unit, economic damages, and adverse health effects relating to, arising from or caused by mold and/or mildew accumulation regardless of the cause of said mold/or mildew.

Each Unit Owner and each other person having an interest in or lien upon, or making any use of, any portion of the Condominium Property shall be bound by this provision and shall be deemed to have automatically waived any and all claims, obligations, demands, damages, causes of action, liabilities losses and expenses, whether now known or hereafter known, foreseen or

unforeseen, that such person has, or may have in the future, in law or in equity against the Association, its Officers, Directors, and Committee Members, or any person or entity the Association is obligated to indemnify (and without waiving, reducing or otherwise modifying coverage obligations or subrogation rights of any insurer) arising out of, relating to, or in any way connected with indoor air quality, moisture, or the growth, release, discharge, dispersal or presence of mold and/or mildew or any chemical or toxin secreted therefrom.

11. OWNERSHIP OF COMMON ELEMENTS. The sharing of Common Expenses and ownership of Common Elements and Common Surplus shall be on a 1/32nd basis. The undivided share of ownership on the Common Elements and Common Surplus appurtenant to a Unit cannot be conveyed or separately hypothecated. 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 by a Unit Owner, hypothecated, pledged or transferred except as an appurtenance to the Units.

12. VOTING RIGHTS. The voting rights of the Owner of each Unit shall be 1/32nd (one Voting Interest per Unit). Voting rights may be suspended pursuant to the terms of the Condominium Documents and/or Florida Law. Suspension of voting rights shall not affect the basis for which Common Expenses are shared or Common Elements and Common Surplus owned. However, suspended Voting Interests shall be subtracted from the required number of votes when calculating any required vote or quorum during the period for which said Voting Interest is suspended.

13. ASSESSMENTS AND LIENS. Assessments against Owners shall be made by the Board of Directors of the Association, in the manner provided in the By-Laws and as follows, and shall be borne by the Unit Owners on the basis set forth in Article 11 and elsewhere in these Condominium Documents.

13.1 Liability for Assessments and Charges. A Unit Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all Assessments and Charges coming due while he is the Unit Owner. Except as provided in Section 13.5 below, any person or entity which acquires title to a Unit shall be jointly and severally liable with their predecessor in title for all unpaid Assessments and Charges against the predecessor for his share of the Charges and Assessments, including interest, late fees, attorney's fees and other costs and expenses of collection incurred by the Association up to the time of the transfer, without prejudice to any right the transferee may have to recover from the transferor the amounts paid by the transferee. The liability for Assessments or Charges may not be avoided by waiver of the use or enjoyment of any Common Elements or by the abandonment of the Unit for which the Assessments or Charges are made.

13.2 Default in Payment of Assessments for Common Expenses or Charges. Assessments and installments thereof not paid within ten (10) days from the date when they are due shall incur a late fee and bear interest in an amount as determined by the Board of Directors which, unless otherwise specified, shall be the maximum allowed by law. The Board may

Second Amended and Restated Declaration of Condominium

Page 13 of 45

accelerate unpaid Assessments in the manner prescribed by law. The Association has a lien on each Condominium Parcel for any unpaid Assessments on such parcel, with interest, late fees and for reasonable attorney's fees, as well as costs and expenses of collection incurred by the Association incident to the collection of the Assessment or enforcement of the lien. If prohibited by the Act, no lien may be filed by the Association against a Condominium Unit until thirty (30) days after the date on which a notice of intent to file a lien has been delivered to the Owner pursuant to Section 718.121(4) of the Act. The Association may also accelerate all Assessments or Charges which are accrued, but not yet due, in the manner provided by law. The Association's lien is in effect until all sums secured by it have been fully paid or until barred by law. A claim of lien shall be signed and acknowledged by an Officer or agent of the Association. Upon recording, the Association's claim of lien shall relate back to the date of the filing of the original Declaration of Condominium. Upon payment in full, the Condominium Parcel is entitled to a satisfaction of the lien. The Association may bring an action in its name to foreclose a lien for Assessments or Charges in the manner that a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid Assessments or Charges without waiving any claim of lien.

13.3 Notice of Intention to Foreclose Lien. So long as required by law, no foreclosure judgment may be entered until at least thirty (30) days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments or Charges. If this notice is not given at least thirty (30) days before the foreclosure action is filed, and if the unpaid Assessments or Charges, including those which have been accelerated (if applicable) and those coming due after the claim of lien is recorded, are paid before the entry of a final judgment or foreclosure, the Association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the Unit Owner or by certified mail, return receipt requested, addressed to the Unit Owner. If after diligent search and inquiry the Association cannot find the Unit Owner or a mailing address at which the Unit Owner will receive the notice, the court may proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this provision are satisfied if the Unit Owner records a Notice of Contest of Lien as provided in the Act.

13.4 Attachment of Rental Income When Unit is Delinquent. Notwithstanding any other remedy available to the Association under this Declaration, the By-Laws, or applicable law, the Association shall have the following options when payment of Assessments or Charges are in default (more than ten days in arrears). The Association may, without order of the Court, direct rental income (by written notice to the Tenant with copy to Unit Owner) from Units in default to be paid directly to the Association until all outstanding Assessments, Charges, other monetary obligations, interest, late fees, costs, collection expenses, attorney's fees and receiver's fees, if applicable, are paid in full. As an alternative, the Association may apply to a Court of competent jurisdiction, either in connection with a foreclosure suit, a personal suit, or otherwise, to have rental proceeds paid on account of a Unit in default paid directly to the Association, the court registry, or a receiver, as the Court may direct. The Association may choose any of these courses of action, or other remedies as may be prescribed by law or elsewhere in the

Condominium Documents, as the Board deems appropriate, without same constituting a waiver or election of remedies.

13.5 First Mortgagee. The priority of the Association's lien and the obligation for payment of past due Assessments or other sums due in relation to first mortgagees who obtain title as a result of foreclosure or deed in lieu of foreclosure, shall be determined by the Act.

13.6 Certificate of Unpaid Assessments or Charges. Any Unit Owner has the right to require from the Association a certificate showing the amount of unpaid Assessments or Charges against him/her with respect to his/her Unit. The Association, its agents, and counsel shall be entitled to charge a fee for preparing such information, in amounts established by the Board, or in a management agreement between the Association and a Community Association Management Firm, or based on reasonable and customary fees charged by legal counsel.

13.7 Lien for Charges. There is created by this Declaration a common law and contractual lien to secure payment for any service which the Association provides for an individual Unit Owner or expenses which the Association incurs in regard to a Unit Owner and which is not otherwise secured by the statutory lien for Common Expenses. By way of example, but not limitation, a Lien for Charges exists to secure repayment to the Association when it must remove or reinstall Unit Owner alterations or items of Unit Owner insurance, maintenance, repair or replacement responsibility in connection with the Association's discharge of its Common Element maintenance responsibilities, or address emergency situations, such as water extraction from a Unit. The Lien for Charges shall be of equal priority to, shall accrue interest and late fees, and shall be foreclosed in the same manner as the Common Expense lien, including the right to recover attorney's fees, costs and expenses of collection.

13.8 Other Remedies. The Board of Directors shall have the authority to impose such other remedies or sanctions permitted by the Act pertaining to non-payment of monetary obligations to the Association. Without limitation, same include suspension of use rights in Common Elements and Association Property; suspension of voting rights; suspension of the right to serve on the Board; the attachment of rental income; denial of lease approval requests; and acceleration.

14. MAINTENANCE, LIMITATION UPON ALTERATION AND IMPROVEMENT. Responsibility for the maintenance, repair and replacement of the Condominium Property and restrictions on its alterations and improvements shall be as follows:

14.1 Association Maintenance. The maintenance, repair and replacement of all Common Elements and Association Property shall be performed by the Association and the cost is a Common Expense. The Association's responsibility includes, without limitation the following:

14.1.1 All electrical conduit up to the circuit breaker serving each Unit.

Second Amended and Restated Declaration of Condominium
Page 15 of 45

LAW OFFICES
BECKER & POLIAKOFF, P.A.
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966
TELEPHONE (239) 433-7707

14.1.2 Rough plumbing.

14.1.3 All installations located within a Unit but serving another Unit or located outside the Unit for the furnishing of utilities to one or more Units or the Common Elements.

14.1.4 Painting of all exterior surfaces and maintaining the roof.

14.1.5 All driveway and parking areas.

In the event the maintenance, repair and replacement of any of the above shall be made necessary because of the negligence, act or omission of a Unit Owner, his family, lessees, invitees and guests, then the work shall be done by the Association at the expense of the Unit Owner.

14.2 Unit Owner Maintenance. Each Unit Owner is responsible, at Unit Owner's own expense, for all maintenance, repairs and replacements within his/her own Unit, whether ordinary or extraordinary, including, without limitation, the following:

14.2.1 Window screens, windows and window glass.

14.2.2 Entrance door and all other doors within or affording access to the Unit and the framing thereof.

14.2.3 Electrical, mechanical and plumbing fixtures and outlets (including connections).

14.2.4 The circuit breaker panel serving the Unit.

14.2.5 Appliances.

14.2.6 All portions of the heating and air conditioning equipment and the water heater serving the Unit.

14.2.7 Carpeting and other floor covering.

14.2.8 Door and window hardware and locks, appliances, and other facilities or fixtures located entirely within his/her own Unit which serves only his/her own Unit.

14.2.9 All interior partition walls which do not form part of the boundary of the Unit.

14.2.10 All built in cabinets.

14.2.11 All wall and ceiling coverings.

Any insurance proceeds paid to the Association with respect to any loss or damage within the Unit covered by the Association's casualty insurance, and which loss would otherwise be borne by the Unit Owner, shall be paid to the Unit Owner.

14.3 Other Owner Responsibilities. The Unit Owner shall also have the following responsibilities:

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

14.3.2 Window Coverings. The coverings and appearance of windows and doors, whether by draperies, shades or other materials visible from the exterior of the Unit, shall be subject to the rules and regulations of the Association.

14.3.3 Hurricane Shutters. The Board of Directors shall adopt hurricane shutter specifications, which shall comply with applicable building codes and may address color, style and other factors deemed relevant by the Board.

14.3.4 Common Elements. Common element walkways, driveways, and other Common Elements shall not be obstructed, littered, defaced or misused in any manner. Patios shall be used only for the purposes intended and they shall not be used for hanging or drying clothing, for cleaning of rugs or other household items or for storage of bicycles or other personal property.

14.4 Modifications or Alteration by Unit Owner. No Owner may make or permit the making of any modifications or alterations to any portion of his Unit visible from the exterior, or in any manner change the appearance of any portion of the Common Elements without first obtaining the written consent of the Board of Directors. No Owner may undertake any structural work or undertake any structural modification or alteration without first obtaining the written consent of the Board of Directors, if such modifications or alterations require a building or other permit.

14.5 Additional Unit Owner Responsibility for Modifications or Alterations. If a Unit Owner (or his predecessors in title) makes, or has made any modifications or alterations to the interior or exterior of the Unit, Common Elements, or Limited Common Elements, the Unit Owner (and his heirs, successors in title and assigns) shall be financially responsible for the insurance, maintenance, care, preservation, reconstruction, repair or replacement of the modification or alteration and shall execute such documents as the Association may promulgate, if any, accepting said financial responsibility. Any modification or alteration to the Condominium Property made by a Unit Owner may be required to be removed in connection with the Association's maintenance of the Condominium Property. In such cases, the Unit Owner who installed the modification or alteration (and/or his successors in title) shall be

obligated to reimburse the Association for any costs affiliated with removal and/or re-installation of the item, with said obligation being secured by a right of Lien for Charges of equal dignity to the Common Expense lien created by this Declaration, or alternatively, said Owner may be required to remove and reinstall said modification or alteration, if so determined by the Board of Directors. Further, the Association, its contractors and agents, shall not be liable for any damage to the item arising out of its removal and/or reinstallation, unless occasioned by the gross negligence or willful misconduct of the Association or its contractor or agent, although the Association may provide for stricter liability standards in contracts with contractors.

14.6 Alterations and Additions to Common Elements by Association. The protection, maintenance, repair, replacement and insurance of the Common Elements are the responsibility of the Association and the cost is a Common Expense. Material alterations or substantial additions may be made with Board approval; however, the Association shall make no such alterations or additions costing more than \$15,000.00 in the aggregate in any calendar year without prior approval of at least a majority of the Voting Interests present (in person or by proxy) and voting at an Association meeting, or by written agreement of a majority of the entire Voting Interests. However, if work reasonably necessary to protect, maintain, repair, replace or insure the Common Elements also constitutes a material alteration or substantial addition to the Common Elements, no prior Unit approval is required. Cellular antennae and similar apparatus and apparatus to provide communication or internet services as provided in Section 1.11, may be placed on the Condominium Property as determined by the Board in agreements with third parties, as may be necessary or appropriate to provide communications, information or internet services.

14.7 Enforcement of Maintenance. If, after reasonable notice, the Owner of a Unit fails to maintain the Unit or other portions of the Condominium Property as required by this Declaration, the Association shall have, without waiver of other remedies, the right to enter the Owner's Unit or Common Element (including Limited Common Elements) and perform or cause performance of the necessary work, and/or institute legal proceedings at law or in equity to enforce compliance, and/or to take any and all other lawful actions to remedy such violation, in which event the Unit Owner shall be charged for the costs of such activities (including attorney's fees incurred by the Association) by the Association which shall be secured by a Lien for Charges.

14.8 Negligence; Damage Caused by Condition of the Condominium Property. Each Unit Owner shall be liable to the Association and/or other Unit Owners for the expenses of any maintenance, repair or replacement of the Condominium Property, made necessary by his intentional act or negligence, or by that of any member of his Family or his or their Occupants, Guests, Tenants or Invitees. If any condition, defect or malfunction existing within a Unit or Common Elements which the Unit Owner is obligated to insure, maintain, repair, or replace if caused by the Owner's (or his Family member's, Occupant's, Guest's, Tenant's or Invitee's) acts, negligence, or failure to comply with the Condominium Documents or applicable law, shall cause damage to the Common Elements, Association Property, or to other Units, the Owner of

the offending Unit shall be liable to the person or entity responsible for repairing the damaged areas for all costs of repair or replacement not paid by insurance (including the deductible) and without waiver of any insurer's subrogation rights, provided that such responsibility shall be conditioned on the neighboring Unit(s) being adequately insured based on local standards and conditions. Further, any claim of a Unit Owner against the Association or another Unit Owner relative to damage to the Condominium Property, to the extent the Association or other Unit Owner might otherwise be liable pursuant to the Condominium Documents or applicable law, shall be predicated upon the Unit Owner making the claim being adequately insured based on local standards and conditions, whether or not individual Unit Owner insurance is mandated by the Act. Should any Unit Owner fail to maintain such insurance, any claim will be reduced to the extent such Unit Owner's insurance, if obtained pursuant to the above-described standards, would have provided coverage or compensation for the loss and without waiving any other remedy of the Association regarding Unit Owner insurance requirements. The requirement that the individual Unit Owner obtain insurance shall not be construed to confer any additional liability or responsibility on the Association or other Unit Owners (without limitation, the Association shall not be obligated to obtain proof of Unit Owner insurance), but is intended to require Unit Owners and the Association to respectively insure risks that are customarily experienced in condominiums located in Florida's coastal communities, condominiums in general, including but not limited to damages occasioned by windstorms, hurricanes, tornadoes, floods, rainstorms, bursting pipes, water seepage and leakage, and mold and mildew, regardless of whether such insurance is legally required. If one or more of the Units involved is not occupied at the time a damage incident is discovered (regardless of the cause), the Association may enter the Unit(s) without prior notice to the Owner(s) and take reasonable action to mitigate damage or prevent its spread, at the Unit Owner's expense. The Association may, but is not obligated to, repair the damage without the prior consent of the Owner, in the event of an emergency, and the Owner shall be responsible for reimbursement of the Association, with the cost being secured by a Lien for Charges. Unit Owners are required to shut off all water valves when the Unit will be unoccupied in accordance with the Rules and Regulations, and failure to do so will create a presumption of negligence.

Unit Owners are also required to ensure that electricity, and if separately metered, water and sewer, are always available to service the Unit. If a Unit Owner fails to maintain Utility Services to his Unit, the Association shall have, without waiver of other remedies, the right to enter into the Owner's Unit and Limited Common Element and take any and all lawful actions to make the utilities available to service the Unit, in which event the Unit Owner shall be charged for such activities (including attorneys' fees incurred by the Association) by the Association which shall be secured by a Lien for Charges.

14.9 Association's Access to Units. The Association has an irrevocable right of access to the Units for the purpose of protecting, maintaining, repairing and replacing the Common Elements, or any portion of a Unit to be maintained by the Association or as necessary to prevent damage to the Common Elements or to a Unit and for any other purpose permitted by law. The exercise of the Association's access rights shall be accomplished with due respect for

the Unit Owner's rights 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. No Unit Owner shall alter any lock nor install a new lock to prevent access when the Unit is unoccupied, unless the Unit Owner provides the Association with a key.

14.10 Incidental Damage. If, in connection with the discharge of its maintenance, repair or replacement responsibilities, the Association must remove, disassemble, or destroy portions of the Condominium Property which the Unit Owner is required to maintain, repair, or replace, the Association shall be responsible for reinstallation or replacement of that item, including cabinetry, drywall and moldings, to its unfinished state, and excluding floor coverings, wall coverings, ceiling coverings, paint, wallpaper, paneling, and other finishes, provided that the Association's obligations are limited to the replacement of items that were part of the Condominium Property as originally installed by the Developer, or replacements thereof of like kind and quality, and except in cases of casualty repair, which shall be governed by Article 20 of this Declaration. Repair or replacement of all upgrades or additions, even if made by a predecessor in title, shall be the responsibility of the Unit Owner, specifically including but not limited to hurricane shutters which the Association must remove in connection with the maintenance of the Building, although the Association may have shutter reinstallation work performed by its contractor, and the Unit Owner will be responsible for reimbursement to the Association as a Charge.

14.11 Combination of Units. No Units may be combined in to a single living space.

14.12 Hurricane Protection. The Board of Directors shall adopt hurricane shutter specifications for the Condominium which shall include color, style, and other factors deemed relevant by the Board. All specifications adopted by the Board shall comply with the applicable building code.

The hurricane shutters or other hurricane protection authorized by this Section 14.12 are the maintenance, repair and replacement responsibility of the Unit Owners pursuant to this Declaration.

15. OCCUPANCY AND USE RESTRICTIONS. In order to preserve the values and amenities of the Condominium, the use of the Units and the Common Elements shall be in accordance with the following provisions:

15.1 Housing For Older Persons. In accordance with the Fair Housing Amendments Act of 1988 as amended by the Housing for Older Persons Act of 1995, and as provided in parallel state or local ordinances, all as amended from time to time, at least one person fifty-five (55) years of age or older must simultaneously occupy each unit, as the permanent occupant of said unit, while any other person occupies said unit. The Board of Directors shall have the authority to establish additional regulations, if necessary, to define "permanent occupancy." It is the intention of this provision that the individuals who customarily reside in the unit as their primary or seasonal

Second Amended and Restated Declaration of Condominium

Page 20 of 45

residence will be the “permanent occupant” and that such persons be in simultaneous residence while persons under age 55 are occupying the unit. Any additional permanent occupant of the unit, who is under the age of fifty-five (55) and age eighteen (18) or older may occupy and reside in the unit as long as one of the permanent occupants is age fifty-five (55) or older, and is in simultaneous residence. Guests under the age of eighteen (18) shall be allowed to occupy a unit on a temporary basis, not to exceed thirty (30) days in any calendar year for each such guest, and subject to the guest regulations provided elsewhere in the Declaration of Condominium or the Rules and Regulations. Notwithstanding these provisions, the Board in its sole discretion shall have the right to establish hardship exceptions to permit persons of age eighteen (18) or older and less than fifty-five (55) years of age to permanently reside in the community even in the absence of simultaneous residence by a person or persons fifty-five (55) years of age or older, provided that said exception shall not be permitted in situations where the granting of a hardship exception will result in violating applicable fair housing law standards. Any surviving co-habitant or heir of a unit owner may not be denied membership in the Association and permanent occupancy of a unit provided that he/she has or obtains title to the unit, and provided that the Unit is not used for residency by persons less than 18 years of age. The Board of Directors may establish additional policies and procedures for the purpose of ensuring that the required percentages of occupancy by older persons are maintained at all times. The Board of Directors shall have the sole and absolute authority to deny occupancy of a unit by any person(s) whose occupancy would violate this provision.

15.2 Occupancy of Units; Single Family Use. A Condominium Unit shall be used only as a Single Family residence. As used in the Condominium Documents, “Single Family” means one natural person, a group of two or more natural persons who customarily reside together as a Single Family housekeeping Unit, each of whom is related to each of the others by blood, marriage (or domestic partnership) or adoption, or not more than two persons not so related, who customarily reside together as a single housekeeping Unit. No more than six (6) persons may permanently occupy a Unit. For purposes of these Condominium Documents, “permanently occupy” means to sleep in the Unit for more than thirty (30) nights during a calendar year. No person may occupy a Unit as a Unit Owner, Tenant, or Family member thereof (i.e., occupy the Unit on an overnight basis for more than thirty (30) days in a calendar year) unless said person’s occupancy has been specifically approved by the Association, through the Board of Directors. In considering such requests, the Board may consider factors set forth in Article 18 hereof, and may charge a reasonable fee for review of occupancy requests. Visitation by Guests is governed by Article 16 of this Declaration of Condominium. Units may not be used for commercial or business purposes. Unit Owners (and their Family members and Tenants) may use Units for “home office” or “telecommuting” purposes, provided that such uses do not involve customers or clients coming onto the Condominium Property, the posting of any signage in the Condominium, the storage of equipment, products, or materials in the Condominium, nor more than two regular deliveries per day of correspondence or similar items from customary express delivery services.

15.3 Nuisances. The Condominium Property shall not be used for any immoral, improper or unlawful purpose and no use or behavior shall be allowed which will create a public

Second Amended and Restated Declaration of Condominium

Page 21 of 45

or private nuisance, nor which shall unreasonably interfere with the quiet possession or enjoyment of the Condominium Property, nor which becomes a source of annoyance to the Condominium residents, or which will increase insurance rates. All property shall be kept in a neat and orderly manner. The Common Elements shall be used for the purpose of furnishing services and facilities as herein provided for the welfare and enjoyment of such residents. The Condominium Property shall be used in accordance with all federal, state, and local laws and ordinances.

15.4 Signs. A Unit Owner shall show no sign, advertisement or notice of any type on the Common Elements or in or upon the Unit so as to be visible from the Common Elements or any public way, except as may be previously and specifically approved in writing by the Board of Directors of the Association.

15.5 Animals. A Unit Owner shall not keep, raise or breed any pet or other animal, reptile, livestock, poultry or other creature of any nature in any Unit or upon any portion of the Condominium Property.

15.6 Clotheslines. No clotheslines or other similar devise shall be allowed on any portion of the Condominium Property or Common Elements. Clotheslines within a Unit shall be concealed from view.

15.7 Litter. In order to preserve the beauty of the Condominium, no garbage, trash, refuse or rubbish shall be deposited, dumped or kept upon any part of the Condominium Property except in proper sized, closed plastic bags for pick up as required in closed containers, dumpsters or other garbage collection facilities deemed suitable by the Board. All containers, dumpsters and other garbage collection facilities shall be screened from view and kept in a clean condition with no noxious or offensive odors emanating there from.

15.8 Radio Transmission. No radio transmission equipment shall be operated or permitted to be operated within the Condominium Property without the prior written consent of the Board.

15.9 Vehicles. No commercial vehicles, as the term is defined in Section 3.12.1(G) of the City of Cape Coral Land Use and Development Regulations, as amended from time to time, buses, open-bed vehicles, trucks, trailers, campers, mobile homes, motor homes, motorcycles, golf carts, off-road vehicles, inoperable, wrecked, partially dismantled or abandoned vehicles, or boats of any kind shall be permitted to be parked or stored at any time upon Condominium Property, except for commercial vehicles or trucks furnishing goods and services during the daylight hours and except as the Association may designate for such use by appropriate rules and regulations. The Association shall have the right to authorize the towing away of any vehicles which violate this Declaration or the Rules and Regulations of the Association, with the costs to be borne by the Unit Owner or violator. In addition, the Board may adopt rules and regulations from time to time regulating and limiting the size, weight, type and place and manner of operation of vehicles on the Condominium Property.

Second Amended and Restated Declaration of Condominium

Page 22 of 45

15.10 Projections. No Unit Owner shall cause anything to project out of any window or door except as may be approved in writing by the Association.

15.11 Condition of Units. Each Unit Owner shall keep the Unit in a good state of preservation and cleanliness and shall not sweep or throw or permit to be swept or thrown therefrom or from the doors or windows thereof any dirt or other substances.

15.12 Hurricane Season. Each Unit Owner who plans to be absent from the Unit during the hurricane season must prepare the Unit prior to departure as set forth in the Rules and Regulations by removing all furniture, potted plants and other movable objects from the patio and balcony areas and by designating a responsible firm or individual satisfactory to the Association to care for the Unit should the Unit suffer hurricane damage. No hurricane shutters may be installed without the prior written consent of the Board as set forth in the Rules and Regulations. If the installation of hurricane shutters is made which does not conform to the specifications approved by the Board, then the hurricane shutters will be made to conform by the Board at the Unit Owner's expense or they shall be removed.

15.13 Board's Rule-Making Power. The Association, through its Board, may from time to time promulgate such other rules and regulations with respect to the Condominium as it determines to be in the best interests of the Condominium and the Unit Owners. The Board may promulgate, modify, alter, amend or rescind such rules and regulations provided such promulgations, modifications, alterations and amendments apply equally to all lawful residents without discriminating on the basis of whether a Unit is occupied by a Unit Owner or his lessee.

16. GUEST OCCUPANCY. A "Guest" is defined as a person who enters upon the Condominium Property at the invitation of a Unit Owner or Tenant (or their respective families) for the purpose of visiting the Unit Owner or Tenant (or their respective families), occupying the Condominium Unit for less than thirty (30) days, or utilizing the Condominium Property. Use or visitation without consideration (payment) distinguishes a Guest usage from a tenancy.

16.1 Restrictions. Any usage by Guests shall not create a nuisance or annoyance to other Condominium residents, nor prevent their peaceful enjoyment of the premises. The Association may restrict or prohibit Guest visitation by convicted felons, including but not limited to registered sex offenders and persons who have been convicted of narcotic offenses. Guests shall be entitled to use the Condominium facilities. The Board may establish additional restrictions on Guest usage of Condominium facilities and the maximum numbers of Guests who may use common facilities. Under no circumstances may more than eight (8) persons (including the Unit Owners, Tenants, their Families, Guests or any other Occupants) sleep overnight in a Unit. Unit Owners and Tenants may have Units inspected by caretakers, friends or relatives. However, such individuals shall not be permitted to use Condominium facilities, such as recreational facilities (including but not limited to the pool and parking areas). Tenants are not permitted to have overnight Guests (related or non-related) in their absence.

Second Amended and Restated Declaration of Condominium

Page 23 of 45

LAW OFFICES
BECKER & POLIAKOFF, P.A.
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966
TELEPHONE (239) 433-7707

16.2 Additional Board Authority. The Board may promulgate such rules, policies, and procedures as are necessary to implement this Article. In the event that Unit Owners are suspected of circumventing rental restrictions by receiving consideration for occupancies which are held out as guest occupancies, the Association may require proposed Guest Occupants to submit proof of familial relationship, an affidavit as to absence of payment for the right to occupy the premises, or other proof that the leasing provisions of Article 17 are not being violated.

17. LEASING OF UNITS. The lease of a Unit is defined as occupancy of the Unit by any person other than the Unit Owner, whether pursuant to verbal or written agreement, where said occupancy by the non-owner involves consideration (the payment of money, the exchange of goods or services, or any other exchange of value). The term "leasing" and "renting" shall be used interchangeably for the purpose of this Declaration of Condominium. The term "Tenant" and "Lessee" shall likewise be used interchangeably. All leases must be in writing. Should a Unit Owner wish to lease his Unit, he shall furnish the Association with a copy of the proposed lease and the name of the proposed Lessee, as well as all proposed Occupants. Any person occupying the Unit after initial approval shall be subject to a separate application and approval process. The Association shall have thirty (30) days from the receipt of notice and all required information within which to approve or disapprove of the proposed lease or proposed Lessees or Occupants. The Association shall give the Unit Owner written notice of its decision within said period. No individual rooms may be rented and no transient tenants may be accommodated. "Rent-sharing" and subleasing are prohibited. No Unit may be leased for a period of less than ninety (90) consecutive days nor more than three (3) times per calendar year. Leases may be renewed, subject to Board approval. This Section shall apply to all Unit Owners, regardless of when the Unit was purchased or title acquired.

17.1 Board Right of Approval. The Board of Directors shall have the authority to approve all leases and renewals or extensions thereof, which authority may be delegated to a committee or agent. No person may occupy a Unit as a Tenant, Family member of a Tenant, Occupant, or otherwise without prior approval of the Board of Directors. The Board shall have the authority to promulgate or use a uniform lease application and require such other information from the proposed Tenant and all proposed Occupants as the Board deems appropriate under the circumstances. The Board may require an interview of any proposed Tenant and all proposed Occupants of a Unit, as a condition for approval.

17.2 Tenant Conduct; Remedies. All leases shall be on a uniform form of lease or lease addendum if so promulgated by the Association. Uniform leases, addenda and all other leases will provide, or be deemed to provide that the Tenants have read and agreed to be bound by this Declaration, Articles of Incorporation, By-Laws, and Rules and Regulations as the same may be amended from time to time (the "Condominium Documents"). The uniform lease or addendum and other leases shall further provide or be deemed to provide that any violation of the Condominium Documents shall constitute a material breach of the lease and subject the Tenant to eviction as well as any other remedy afforded by the Condominium Documents or Florida law.

If a Tenant, other Unit Occupant, Guest or Invitee fails to abide by the Condominium Documents, the Unit Owner(s) shall be responsible for the conduct of the Tenants, Occupants, Guests and Invitees and shall be subject to all remedies set forth in the Condominium Documents and Florida law, without waiver of any remedy available to the Association as to the Tenant. The Unit Owner shall have the duty to bring his Tenant's conduct (and that of the other Unit Occupants, Guests and Invitees) into compliance with the Condominium Documents by whatever action is necessary, including without limitation the institution of eviction proceedings without notice to cure, where legally permissible. If the Unit Owner fails to bring the conduct of the Tenant into compliance with the Condominium Documents in a manner deemed acceptable by the Association, the Association shall have the authority to act as agent of the Unit Owner to undertake whatever action is necessary to abate the Tenants' noncompliance with the Condominium Documents (or the other noncompliance of other Occupants, Guests or Invitees), including without limitation the right to institute an action for eviction against the Tenant in the name of the Association in its own right, or as agent of the Unit Owner. The Association shall have the right to recover any costs or fees, including attorney's fees, incurred in connection with such actions, from the Unit Owner which shall be secured by a continuing lien in the same manner as assessments for Common Expenses, to wit, secured by a Lien for Charges. Any uniform lease or lease addendum will provide, or be deemed to provide that the Association shall have the authority to direct that all rental income related to the Unit be paid to the Association until all past due and current obligations of the Association have been paid in full, including but not limited to all past due Assessments, Charges, other monetary obligations, late fees, interest, attorneys' fees and cost and expenses of collection.

17.3 Security Deposit. The Board of Directors shall have the authority, as a condition of granting approval to a lease or renewal or extension thereof, to require that a prospective Lessee or Unit Owner place a security deposit in an amount not to exceed the equivalent of one month's rent into an escrow account maintained by the Association to protect against damage to the Common Elements or Association Property. Payment of interest, claims against the deposit, refunds, and disputes under this paragraph shall be handled in the same fashion as provided in Part II of Chapter 83 of the Florida Statutes (2011) as amended from time to time.

17.4 Approval Process; Disapproval. Any Unit Owner intending to lease his Unit shall submit a copy of the proposed lease, an application, and any other requested information and required fees at least thirty (30) days in advance of the commencement of the lease or renewal or extension term. Upon receipt of all information and fees required by Association and an interview (if requested by the Board), the Association shall have the duty to approve or disapprove all proposed leases within thirty (30) days of receipt of such information for approval and the completion of the Tenant/Occupant interview (if required), by sending written notification to the Unit Owner within such time frame. All requests for approval not acted upon within thirty (30) days shall be deemed approved. Applications for renewals or extensions of lease agreements shall be submitted at least thirty (30) days in advance of the expiration of the lease agreement. If the Association disapproves a proposed lease or renewal or extension, the Unit Owner shall receive a short statement indicating the reason for the disapproval, and the

Second Amended and Restated Declaration of Condominium

Page 25 of 45

lease shall not be made, renewed, or extended. The Association shall neither have a duty to provide an alternate Lessee nor shall it assume any responsibility for the denial of a lease application if any denial is based upon any of the following factors:

17.4.1 The person seeking approval (which shall hereinafter include all proposed Occupants) has been convicted of a crime involving violence to persons, a crime demonstrating dishonesty or moral turpitude or any felony.

17.4.2 The application for approval on its face, facts discovered in connection with the Association's investigation, or the conduct of the applicant, indicate that the person seeking approval intends to conduct himself in a manner inconsistent with the Condominium Documents. By way of example, but not limitation, a Tenant taking possession of the premises prior to approval by the Association as provided for herein shall constitute a presumption that the applicant's conduct is inconsistent with the Condominium Documents and may constitute grounds for denial.

17.4.3 The person seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in other housing facilities or associations, or by his conduct in this Condominium as a Tenant, Occupant or Guest.

17.4.4 The Unit Owner or person seeking approval has failed to provide the information, fees, or appearances required to process the application in a timely manner.

17.4.5 All Assessments, fines and other Charges and monetary obligations against the Unit and/or Unit Owner have not been paid in full.

17.5 Liability. The liability of the Unit Owner under the Condominium Documents shall continue notwithstanding the fact that he may have leased or rented his interest in the Unit as provided herein.

17.6 Association Fee. The Unit Owner or Lessee seeking approval of a lease of a Unit shall pay a transfer fee for each applicant in an amount determined by the Board, which unless otherwise specified, shall be the maximum amount permitted by law. No charge shall be made in connection with an extension or renewal of a lease.

18. TRANSFER OF OWNERSHIP OF UNITS. In order to maintain a community of congenial Unit Owners who are financially responsible, and thus protect the value of the Units, the use and transfer of Units by any Owner shall be subject to the following provisions as long as the Condominium exists upon the land, which provisions each Unit Owner covenants to observe:

18.1 Forms of Ownership.

18.1.1 Ownership by Individuals. A Unit may be owned by one natural person who has qualified and been approved as elsewhere provided herein.

18.1.2 Co-Ownership. Co-ownership of Units may be permitted. If the co-owners are other than husband and wife or Domestic Partners, the Board shall condition its approval upon the designation of one approved natural person as "Primary Occupant." The use of the Unit by other persons shall be as if the Primary Occupant was the only actual Owner. Any changes in the Primary Occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of the Condominium Documents. No more than one change in Primary Occupant will be approved in any calendar year. No time share estates may be created. "Unit Sharing" by multiple families and "Fractional Ownership" are prohibited.

18.1.3 Ownership by Corporations, Partnerships, Limited Liability Companies, Trusts, or Other Artificial Entities. A Unit may be owned in trust, or by a corporation, partnership, limited liability company, 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 a short-term or transient accommodations for several entities, individuals or families as a timeshare, a shared Unit, fractional ownership, or used as Guest accommodations for employees, customers, or Guests of Units owned by business entities, religious, or charitable organizations, and the like. The approval of a partnership, trustee, or corporation, limited liability company, or other entity as a Unit Owner shall be conditioned upon designation by the Owner of one natural person to be the "Primary Occupant." The use of the Unit by other persons shall be as if the Primary Occupant were the only actual Unit Owner. The Primary Occupant shall be the person entitled to vote on behalf of the Unit, and exercise rights of membership. Any change in this Primary Occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of the Condominium Documents. No more than one change in designation of Primary Occupant will be approved in any twelve (12) month period.

18.1.4 Life Estate. A Unit may be subject to a life estate, either by operation of law or by a voluntary conveyance approved as provided below. In that event, the life tenant shall be the only Member from such Unit, and occupancy of the Unit shall be as if the life tenant were the only Owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy right unless separately approved by the Association. The life tenant shall be liable for all Assessments and Charges against the Unit. Any vote, consent, or approval required by the Condominium Documents or law may be given by the life tenant alone, and the vote, consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-owners for purposes of determining voting and occupancy rights.

18.2 Transfers Subject to Approval.

18.2.1 Sale or Other Transfer. No Unit Owner may dispose of a Unit or any interest in same by sale or other title transfer, without prior written approval of the Board of Directors. No Unit Owner may dispose of a Unit or any interest therein by other means (including agreement for deed, installment sales contract, lease-option, or other similar transactions) without prior written approval by the Board of Directors.

Second Amended and Restated Declaration of Condominium
Page 27 of 45

18.2.2 Gift. If any Unit Owner is to acquire his title by gift, his ownership of his Unit shall be subject to the prior approval of the Board of Directors. Notice must be given at least thirty (30) days prior to the intended closing or title transfer date.

18.2.3 Devise or Inheritance. If any person shall acquire his title by devise, inheritance, through other succession laws, the continuance of his ownership of his Unit shall be subject to the approval of the Board of Directors.

18.2.4 Other Transfers. If any Unit Owner shall acquire his title by any manner not considered in the foregoing subsections, the continuance of his ownership of such Unit shall be subject to the approval of the Board of Directors. If any person acquires title in any manner not considered in the foregoing subsections, that person shall have no right to occupy or use the Unit before being approved by the Board of Directors under the procedures outlined below.

18.3 Approval by Association. The approval of the Association that is required for the transfer of ownership of Units shall be obtained in the following manner:

18.3.1 Notice to Board of Directors.

18.3.1.1 Sale or Other Transfer. A Unit Owner intending to make a bona fide sale or other title transfer of his Unit or any interest in it, including gifts, transfers to artificial entities, and the grant of partial estates, shall give to the Board of Directors notice of such intention, together with the name and address of the intended grantee, an executed copy of the purchase contract and its exhibits, or other documentation evidencing the transfer and such other information concerning the intended grantee and the transaction as the Board of Directors may reasonably require. The Board may require, without limitation, credit history, a criminal background investigation, past residency or employment verification, personal references, and a personal interview with the purchaser(s) and all proposed Unit Occupants.

18.3.1.2 Devise or Inheritance. A Unit Owner who has obtained his title by devise or inheritance, or operation of succession laws, shall give to the Board of Directors notice of the acquiring of his title, together with such information concerning the Unit Owner as the Board of Directors may reasonably require (including that set forth in this Article), and a certified copy of the instrument evidencing the Owner's title.

18.3.1.3 Failure to Give Notice. If the above required notice to the Board of Directors is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a Unit, the Board of Directors at its election and without notice may approve or disapprove the transaction or ownership. If the Board of Directors disapproves the transaction or ownership, the Board of Directors shall proceed as if it had received the required notice on the date of such disapproval.

18.3.2 Certificate of Approval.

Second Amended and Restated Declaration of Condominium
Page 28 of 45

18.3.2.1 Sale or Other Title Transfer. If the proposed transaction is a sale or other prospective title transfer, then within thirty (30) days after receipt of such notice and information, including a personal interview if requested by Board of Directors, the Board of Directors must either approve or disapprove the proposed transaction. If approved and the sale or other prospective title transfer thereafter takes place, the party taking title shall provide the Association with evidence of same in the form of a deed recorded in the Public Records of Lee County, Florida within sixty (60) days of the transfer.

18.3.2.2 Devise or Inheritance. If the Unit Owner giving notice has acquired his title by devise, inheritance, or through succession law, then within thirty (30) days after receipt of such notice and information, including a personal interview if requested by the Board of Directors, the Board of Directors must either approve or disapprove the continuance of the Unit Owner's ownership of his Unit.

18.3.2.3 Approval of Occupant. If the grantee is a corporation, partnership, trust, limited liability company, some other entity, or more than one individual who are not husband and wife or Domestic Partners, the approval of ownership by the corporation, partnership, trust, other entity, or multiple persons shall be conditioned upon approval of a Primary Occupant.

18.4 Disapproval by Board of Directors. If the Board of Directors shall disapprove a transfer or continuance of ownership of a Unit, the matter shall be disposed of in the following manner:

18.4.1 Sale or Other Arms-Length Transaction to Bona Fide Third Party. If the proposed transaction is a sale or other arms-length transfer to a bona fide third party purchaser, and has been disapproved without good cause, then within thirty (30) days after receipt of such notice and information, the Association shall deliver or mail by certified mail to the Unit Owner an agreement to purchase the Unit at issue by a purchaser approved by the Board of Directors, or the Association itself, who will purchase and to whom the Unit Owner must sell the Unit upon the following terms:

18.4.1.1 At the option of the Association to be stated in the agreement, the price to be paid shall be that stated in the disapproved contract to sell or shall be the fair market value determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers, one of whom shall be appointed by the Unit Owner and the other of whom shall be appointed by the Association, who shall base their determination upon an average of their appraisals of the Unit; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be shared by the parties.

18.4.1.2 The purchase price shall be paid in cash. The sale shall be closed within thirty (30) days after the delivery or mailing of the agreement to purchase, or

within ten (10) days after the determination of the sale price if such is by arbitration, whichever is the later. If the Association shall fail to itself purchase the Unit, or provide a purchaser, or if a purchaser furnished by the Association or the Association shall default in his agreement to purchase, then notwithstanding the disapproval, the proposed transaction shall be deemed to have been approved and the Association shall furnish a certificate of approval.

18.4.2 Gifts; Devise; Inheritance; Familial Transfers. If the Unit Owner giving notice has acquired or will acquire his title by gift, devise, inheritance, or succession laws or in any other manner, and if the Board wishes to disapprove the transfer or continuance of ownership without good cause, then within thirty (30) days after receipt from the Unit Owner of the notice and information required to be furnished, the Board of Directors shall deliver or mail by certified mail to the Unit Owner an agreement to purchase the Unit concerned by a purchaser approved by the Board of Directors (including the Association itself) who will purchase and to whom the Unit Owner must sell the Unit upon the following terms:

18.4.2.1 The sale price shall be the fair market value determined by agreement between the grantor and grantee within thirty (30) days from the delivery or mailing of such agreement. In the absence of agreement as to price, or where transfers are made for less and bona fide value, the price shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers, one of whom shall be appointed by the Association and the other of whom shall be appointed by the Unit Owner, who shall base their determination upon an average of their appraisals of the Unit; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be shared by the parties.

18.4.2.2 The purchase price shall be paid in cash. The sale shall be closed within ten (10) days following the determination of the sale price. If the Association shall fail to purchase the Unit or provide a purchaser, or if the Association or a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval, such transfer ownership shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided.

18.4.3 Disapproval for Good Cause. Disapproval of title transfers or the continuation of ownership pursuant to this Article, shall be made by the Board of Directors. Only the following may be deemed to constitute good cause for disapproval:

18.4.3.1 The application for approval on its face, or subsequent investigation thereof, indicates that the person seeking approval (which shall hereinafter include all proposed Occupants) intends to conduct himself in a manner inconsistent with the Condominium Documents;

18.4.3.2 The person seeking approval has been convicted of a crime involving violence to persons, a crime demonstrating dishonesty or moral turpitude, any felony, or a sexual offense of any nature;

18.4.3.3 The person seeking approval has a record of financial irresponsibility, including without limitation prior bankruptcies, foreclosures, or bad debts;

18.4.3.4 The person seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in other social organizations or associations, or by his conduct in this Condominium or other residences as a Tenant, Occupant, Guest or Owner;

18.4.3.5 The person seeking approval failed to provide the information, fees or appearance required to process the application in a timely manner;

18.4.3.6 The Unit Owner requesting the transfer has had fines assessed against him or her which have not been paid; or,

18.4.3.7 All Assessments and other Charges against the Unit have not been paid in full.

If the Board disapproves a transfer for good cause, the Association shall have no duty to purchase the Unit or furnish an alternate purchaser, and the transaction shall not be made, or if made, shall be rescinded in the manner determined by the Board.

18.5 Transfer Fee. The Association may Charge a processing fee for the approval of transfers of title. The fee may not exceed the maximum permitted by law per transaction. The Association or its authorized agent may also charge a reasonable fee for the preparation of a certificate, commonly known as an estoppel certificate, stating all assessments and other monies owed to the Association by the Unit Owner with respect to the Condominium Parcel. The fee for the preparation of such certificate shall be established by a written resolution of the Board or provided for in a management, bookkeeping, or maintenance contract.

18.6 Exceptions. The foregoing provisions of this Section entitled "Transfer of Ownership of Units" shall not apply to a transfer to or purchase by a bank, life insurance company or savings and loan association or other mortgagee approved by the Association that acquires its title as the result of owning a purchase money first mortgage upon the Unit concerned, and this shall be so whether the title is acquired by deed from the mortgagor, or through foreclosure proceedings. However, a transferee of a first mortgagee shall be required to be approved by the Association and comply with all other terms of the Condominium Documents as a condition of ownership and holding title to a Unit in Anna Maria Condominium.

18.7 Unauthorized Transactions. Any sale, lease, mortgage or other transfer of ownership or possession not authorized pursuant to the terms of this Declaration shall be voidable unless subsequently approved by the Association.

19. INSURANCE. The insurance which shall be carried upon the Condominium Property, including the Units, Common Elements, and Association Property shall be as follows:

19.1 Authority to Purchase Insurance. All insurance policies shall be purchased by the Association for the benefit of the Association and the Unit Owners and their mortgagees as their respective interests may appear.

19.2 Coverage.

19.2.1 Property Insurance. Except as otherwise provided herein, the Association shall obtain and maintain fire, wind, general property and extended coverage insurance with a responsible insurance company upon all of the Insurable Improvements of the entire Condominium, including Association Property, the Common Elements, the Units, and the personal property of the Association, for the replacement value thereof, including coverage for changes in building codes, if reasonably available and determined commercially practicable by the Board, and less a commercially reasonable deductible as determined by the Board, provided the Board may exclude landscaping and exterior improvements not customarily insured by condominium associations in the locality, and foundation and excavation costs, in its discretion. The Association shall determine the replacement value of the Insurable Improvements through independent appraisal, at least every 36 months, so long as required by the Act. The Board shall establish deductibles, at a duly noticed meeting of the Board, and shall give notice of such meeting, and determine the deductibles, as required by the Act, so long as required by the Act. Notwithstanding the foregoing requirement, the Association, through its Board of Directors, will have fulfilled its duty to obtain insurance coverage if it obtains and maintains such insurance coverage as may be reasonably available from time to time given market and economic conditions, provided such coverage shall always meet the minimum level of adequate coverage required by Section 718.111(11) of the Act. The original policy of insurance shall be held by the Association, and mortgagees shall be furnished, upon request, mortgage endorsements covering their respective interests. The word "Building" or "Insurable Improvement" in every property insurance policy issued to protect a Condominium building does not include: personal property in the Unit or Limited Common Elements; Unit floor, wall, or ceiling coverings; Unit or balcony electrical fixtures; appliances; water heaters; water filters; built-in cabinets or countertops; window treatments, including curtains, drapes, blinds, hardware and similar window treatment components; and replacements of any of the foregoing, which are located within the boundaries of a Unit and serve only one Unit. The Unit Owners shall also be responsible for insuring all the items excluded from the Association policy as listed above in this Section and shall also be responsible for insuring any and all alterations, modifications or additions made to the Unit, Limited Common Elements, or Common Elements by said Unit Owner, or his predecessor in interest or title. The Unit Owner shall provide a certificate of insurance issued by an insurer approved to write such insurance in the state to the Association on an annual basis.

19.2.2 Flood. The Association shall use its best efforts to obtain and maintain adequate flood insurance, for replacement value, less a commercially reasonable deductible as determined by the Board, and less foundation and excavation costs if determined by the Board for all Condominium Property required to be insured by the Association. Such policy does not include any personal property of the Unit Owner. The Association will have discharged its responsibility to use its "best efforts" to obtain "adequate" flood insurance if it is able to purchase flood insurance through the National Flood Insurance Program (NFIP), or through any similar federally-sponsored or related program, or through private carriers with similar coverage, for premium rates that are generally commensurate with flood insurance premium rates for condominiums in the local area.

19.2.3 Liability Insurance. The Association shall obtain and maintain public liability insurance covering all of the Common Elements and Association Property and insuring the Association and the Unit Owners as their interest may appear in such amount as the Board of Directors may deem appropriate. The Board of Directors shall have authority to compromise and settle all claims against the Association or upon insurance policies held by the Association. The Unit Owners shall have no personal liability upon such claims, except as may be otherwise provided by law, and nothing herein contained shall in any way be construed as imposing upon the Association a duty to assess Unit Owners for the purpose of raising sufficient funds to discharge any liability in excess of insurance coverage.

19.2.4 Fidelity Bond. The Association shall obtain and maintain 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 paragraph, the term "persons who control or disburse funds of the association" includes, but is not limited to, those individuals authorized to sign checks on behalf of the Association, and the President, Secretary, and Treasurer of the Association.

19.2.5 Worker's Compensation. Such worker's compensation coverage as may be required by law, or deemed advisable by the Board.

19.2.6 Other Insurance. Such other insurance as the Board of Directors may from time to time deem to be necessary, including but not limited to Errors and Omissions Officers and Directors Liability insurance coverage and insurance for the benefit of its employees.

19.3 Deductible and Other Insurance Features. The Board of Directors shall establish the amount of the deductible under the insurance policies, and other features (including but not limited to exclusions), as it deems desirable and financially expedient, in the exercise of its business judgment, and in the method provided by the Act. The deductible and other features shall be consistent with industry standards and prevailing practice for communities of similar size and age, and having similar construction and facilities in the locale where the Condominium Property is situated.

Second Amended and Restated Declaration of Condominium

Page 33 of 45

19.4 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense.

19.5 Insurance Shares or Proceeds. Insurance proceeds of policies purchased by the Association covering property losses shall be paid to the Association, and all policies and endorsements thereon shall be deposited with the Association. The duty of the Association shall be to receive such proceeds as are paid and to hold and disburse the same for the purposes stated herein and for the benefit of the Unit Owners and their mortgagees in the following shares:

19.5.1 Common Elements; Proceeds On Account Of Damage To Common Elements. An undivided share for each Unit Owner, such share being the same as the undivided share in the Common Expenses appurtenant to the Unit.

19.5.2 Unit; Proceeds On Account Of Damage To Units Shall Be Held In The Following Undivided Shares.

19.5.2.1 Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs relating to the reconstruction and repair for which the fund is established, such balance shall be distributed in the manner elsewhere stated.

19.5.2.2 When The Condominium Building Is To Be Restored. For the Owners of damaged Units in proportion to the costs of repairing the damage suffered by each Unit Owner, which cost shall be determined by the Association.

19.5.2.3 When The Condominium Building Is Not To Be Restored. An undivided share for each Unit Owner, such share being the same as the undivided share in the Common Expenses appurtenant to the Unit.

19.5.2.4 Common Elements and Units. When both Common Elements and those portions of the Unit insured by the Association are damaged by a common occurrence, the proceeds of insurance shall be allocated between damage to Common Elements, Limited Common Elements, and Units as the Board of Directors shall determine. It shall be presumed that when there are insurance proceeds received on account of a common casualty, but insufficient proceeds for casualty repair (including but not limited to shortfalls occasioned by the existence of a deductible), that such shortfalls shall first be applied to Common Elements damage, and then to damage to Units and Limited Common Elements, it being the intent of this provision that when there is a common casualty loss causing significant damage to the premises, the shortfalls occasioned by deductibles shall be first apportioned to all Unit Owners in proportion to their share of the Common Elements and not applied first to Unit damage

19.5.3 Mortgages. In the event a mortgage endorsement has been issued as to a Unit, the share of that Unit Owner shall be held in trust for the mortgagee and the Unit Owner as

their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds.

19.6 Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be distributed in the following manner:

19.6.1 Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the Unit Owners, or, at the option of the Board, may be deposited in the Association's reserve fund.

19.6.2 Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed in accordance with the Plan of Termination approved pursuant to Article 22.

19.7 Association as Agent. The Association is irrevocably appointed agent for each Unit Owner and for each Owner of a mortgage or other lien upon any Unit and for each Owner of any other interest in the Condominium Property or any property in which the Association owns an interest, to adjust all claims arising under insurance policies by the Association, and to execute and deliver releases upon the payment of such claim.

20. RECONSTRUCTION OR REPAIR AFTER CASUALTY. If any part of the Condominium Property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

20.1 Common Elements. If the damaged improvement is any of the Common Elements, the damaged Common Element shall be reconstructed or repaired, unless the Condominium is to be terminated as provided elsewhere herein.

20.2 The Building.

20.2.1 Lesser Damage. If the damage renders less than 50% of the Units in the Condominium uninhabitable, as determined by the Board of Directors or governmental agencies of jurisdiction, the damaged property shall be reconstructed or repaired.

20.2.2 Major Damage. If the damage renders more than 50% of the Units in the Condominium uninhabitable, as determined by the Board of Directors or governmental agencies of jurisdiction, the damaged property will be reconstructed or repaired, unless 75% of the entire Voting Interests in the Condominium agree in writing that such reconstruction or repair shall not take place. The decision whether or not to reconstruct or repair shall be made within one

Second Amended and Restated Declaration of Condominium

Page 35 of 45

hundred eighty (180) days after the casualty, provided however that the Board of Directors shall have the authority to extend this period for decision-making, not to exceed three (3) years, to deal with exigencies in communication with Unit Owners caused by natural disasters or other significant casualties, or to deal with delays in obtaining information regarding reconstruction costs or insurance proceeds available for reconstruction.

20.2.3 Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original Building, as set forth in the plans and specifications for the Building, or if not, then according to plans and specifications approved by the Board of Directors, regardless of whether it is a material alteration or substantial addition as described in Section 14.6 and no vote of the Unit Owners shall be required.

20.2.4 Definition of "Uninhabitable". For purposes of this Declaration, "uninhabitable" shall mean that the Board of Directors has concluded that the Condominium Property which the Association is required to insure cannot be restored to the condition (or a better condition) in which it existed prior to the casualty through available insurance proceeds, plus a special assessment against each Unit Owner not to exceed 10% of the average fair market value of the Units, as determined by the Board. This calculation shall not include costs affiliated with those items the Unit Owner is obligated to repair or replace, at the Unit Owner's expense. A governmental agency's declaration or order that the Condominium Property may not be occupied for a defined period of time due to safety concerns shall not conclusively establish that Units are uninhabitable, provided that the Units can be made safe for occupancy pursuant to the standards set forth above. In the event of a dispute as to whether or not Units are "habitable", a resolution enacted by the Board shall be binding on all parties, unless wholly arbitrary or contrary to law.

20.3 Responsibility. All reconstruction work after a casualty for damaged items that the Association insures shall be undertaken by the Association, except that a Unit Owner may undertake reconstruction work on portions of the Unit with the prior written consent of the Board of Administration. However, such work, and the disbursement of insurance proceeds, may be conditioned upon the approval of the repair methods, the qualifications of the proposed contractor, the contract that is used for that purpose, and reasonable verification of appropriate steps to ensure that the work is done and that the contractor is paid for the performance of said work. Unit Owners shall be responsible for reconstructing those items that the Unit Owners are required to insure. All required governmental permits and approvals must be obtained prior to commencing reconstruction. Assessments for the cost of the work shall be set forth in Section 20.5 below. If an Owner fails to repair and reconstruct those items that the Unit Owner is responsible for under this Declaration, the Association shall have, without waiver of other remedies, the right to proceed in accordance with Section 14.7, in which event the Unit Owner shall be charged for the costs of such activities (including attorney's fees incurred by the Association) by the Association which shall be secured by such rights as exist for collecting Common Expenses under these Condominium Documents i.e., a Lien for Charges.

20.4 Estimates of Costs. After a determination is made to rebuild or repair damage to property for which the Association or Unit Owner has the responsibility of reconstruction and repair, the Association or Unit Owner shall obtain promptly reliable and detailed estimates of the cost to rebuild or repair.

20.5 Assessments. The cost of reconstruction after casualty for those portions of the Condominium Property required to be insured by the Association shall be considered a Common Expense, pursuant to Section 718.111(11)(j) of the Act. However, any cost of repair, reconstruction or replacement of portions of the Condominium Property that is not caused by a casualty, as defined by the Board of Directors, shall be repaired, and said costs allocated pursuant to the general maintenance, repair, and replacement provisions of this Declaration.

20.6 Termination of Condominium if Not Reconstructed. If the Owners vote not to reconstruct the Condominium by vote described in Section 20.2.2 hereof, the Condominium shall be terminated in accordance with the procedures set forth in Article 22 hereof.

20.7 Additional Board Authority. In addition to Board authority granted by law and the Condominium Documents, the Board shall have the following power and authority in connection with emergency conditions:

20.7.1 To determine after a casualty whether the Units can be safely occupied, which decision shall not be conclusive as to the determination of habitability in Section 20.2. Such decision shall be based upon the advice of emergency management officials or a licensed professional.

20.7.2 To declare any portion of the Condominium Property or Association Property unavailable for occupation by Owners, Family members, Tenants, or Guests after a casualty, including during the rebuilding process. Such decision by the Board shall be based upon the advice of emergency management officials or a licensed professional (such as an engineer) and can be made only if necessary to protect the health, safety, or welfare of the Association, Owners, Family members, Tenants, or Guests.

20.7.3 To mitigate damage and take action to prevent the spread of fungus (including but not limited to mold and mildew) by tearing out wet drywall and carpet (even if the Unit Owner is obligated to insure and/or replace those items) and to remove personal property from the Unit and dispose of damaged property or store such property onsite or at an offsite location, with Owners responsible for reimbursing the Association for items for which the Owner is responsible but which may be necessary to prevent further damage. The Association shall bear no liability for such actions, if taken in good faith.

20.7.4 To contract on behalf of Unit Owners, with said Owners responsible to reimburse the Association, for items for which the Owner is responsible but which may be necessary to prevent further damage. Without limitation, this includes, debris removal, dry-out of Units and replacement of damaged air conditioners when necessary to provide climate control

in the Units. The Unit Owner shall be responsible to reimburse the Association within ten (10) days of the Association's invoice. The Association's right to payment shall be secured by a Common Expense Lien as provided in the Act and actions to collect such sums shall entitle the Association to recover interest, late fees, attorney's fees, and other costs and expenses of collection.

20.7.5 To implement a disaster plan prior to, during or after an impending disaster including, but not limited to, shutting down elevators, electricity, security systems, and air conditioners.

20.7.6 To adopt, by Board action, emergency assessments with such notice deemed practicable by the Board.

20.7.7 To adopt emergency Rules and Regulations governing the use and occupancy of the Units, Common Elements, Limited Common Elements, and Association property, with notice given only to those Directors with whom it is practicable to communicate.

20.7.8 To enter into agreements with local counties and municipalities to assist counties and municipalities with debris removal.

20.7.9 To exercise all emergency powers set forth in the Act.

21. CONDEMNATION.

21.1 Awards. 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 assessment shall be made against a defaulting Unit Owner in the amount of this award, or the amount of the award shall be set off against any sums payable to that Owner.

21.2 Determination Whether to Continue Condominium. Whether the Condominium will be continued after condemnation will be decided in the same manner as repair after casualty as set forth in Article 20 hereof.

21.3 Distribution of Funds. If the Condominium is terminated after condemnation, the proceeds of all awards and special assessments will be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, the size of the Condominium may be reduced. The Owners of condemned Units, if any, will share in awards and special assessments as provided below.

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

21.5 Units Reduced but Habitable. If the taking 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.

21.5.1 Restoration of Unit. The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be assessed against the Owner of the Unit.

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

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

21.6 Units Not Habitable. If the taking of any entire Unit or so reduces the size of the Unit 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:

21.6.1 Payment of Award. The condemnation award immediately prior to the taking shall be paid to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and mortgagee(s).

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

21.6.3 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 recondition the remaining portion of the Unit, the amount required for those purposes shall be raised by special assessment against all of the Unit Owners who will continue as Owners of any Unit after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the shares of those Owners in the Common Expenses after the changes effected by the taking.

21.7 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 the manner approved by the Board of Directors. The balance of such awards, if any, may be returned to the Unit Owners or used by the Association as the Board may determine.

21.8 Amendment of Declaration. The changes in Units, in the Common Elements and in the ownership of the Common Elements that are necessitated by condemnation shall be evidenced by an amendment of the Declaration of Condominium that need be approved only by a majority of all Directors of the Board.

22. TERMINATION.

22.1 The Condominium may be terminated under any one of the following alternatives:

22.1.1 Termination Because of Economic Waste or Impossibility. Notwithstanding anything to the contrary in this Declaration, the Condominium form of ownership may be terminated by a plan of termination approved by the percentage of Voting Interests necessary to amend the Declaration when:

22.1.1.1 the total estimated cost of repairs necessary to restore the improvements to their former condition or bring them into compliance with applicable laws or regulations exceeds the combined fair market value of all Units in the Condominium after completion of the repair; or

22.1.1.2 it becomes impossible to operate or reconstruct the Condominium in its prior physical configuration because of land use laws or regulations.

It is the intent of this provision to incorporate Section 718.117(2) of the Act.

22.1.2 Optional Termination. Except as provided in Section 22.1.1, the Condominium form of ownership may be terminated pursuant to a plan of termination approved by at least eighty percent (80%) of the total Voting Interests of the Condominium if not more than ten percent (10%) of the total Voting Interests of the Condominium have rejected the plan of termination by negative vote or by providing written objections thereto. It is the intent of this provision to incorporate the provisions of Section 718.117(3) of the Act.

22.1.3 Major Damage. If the Condominium suffers major damage as defined in Article 20, which shall mean that more than one-half the Units in the Condominium are rendered uninhabitable as determined in the sole discretion of the Board of Directors, the Condominium may be terminated if seventy-five percent (75%) of the total Voting Interests in the Condominium vote to approve a plan of termination.

22.1.4 Mortgage Lienholders. Notwithstanding any provision to the contrary in this Declaration or Chapter 718, approval of a plan of termination by the holder of a recorded mortgage lien affecting a Condominium Parcel is not required unless the plan of termination would result in less than the full satisfaction of the mortgage lien affecting the Condominium Parcel. If such approval is required and not given, a holder of a recorded mortgage lien who objects to a plan of termination may contest the plan as provided in Sections 718.117(16) of the Act.

22.2 Procedures for Termination and Sale. The termination of the Condominium via either of the methods set forth in 22.1.1 through 22.1.3 herein shall be as set forth in Section 718.117(4) – (20) of the Act.

22.3 Amendment. This Article 22 may be amended in the same manner in which this Declaration of Condominium may be amended generally, as set forth in Article 25.

23. COMPLIANCE AND DEFAULT.

23.1 Duty to Comply; Right to Sue. Each Unit Owner, each tenant, and guest, and other invitees, and the Association shall be governed by and shall comply with the provisions of the Condominium Act, the Declaration, the documents creating the Association, the By-Laws and the Rules and Regulations. Actions for damages or for injunctive relief, or both, for failure to comply may be brought by the Association or by a Unit Owner against:

23.1.1 The Association;

23.1.2 A Unit Owner; or

23.1.3 Anyone who occupies a Unit as a Unit Owner, Family member, Tenant, Occupant or Guest. Unit Owners shall be jointly and severally liable for violations of the Condominium Documents by their Family members, Tenants, Guests, Invitees and Unit Occupants.

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

23.3 Attorneys Fees. In any legal proceeding arising out of an alleged failure of a tenant, a guest or other invitee, or a Unit Owner or the Association to comply with the requirements of the Condominium Act or the condominium documents as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys fee as may be awarded by the court.

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

23.5 Notice of Lien or Suit.

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

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

23.5.3 Failure to Comply. Failure of an Owner to comply with this Section 23.5 will not affect the validity of any judicial suit; however, the failure may render the Owner liable to any party injured by such failure.

24. RIGHTS OF MORTGAGEES.

24.1 Notice of Casualty or Condemnation. In the event of condemnation, eminent domain proceedings or "major" damage to or destruction of any Unit or any part of the Common Elements, the record holder of any first mortgage on an affected Unit shall be entitled to notice.

24.2 Right to Inspect Books. Upon request, the Association shall make available to Institutional Mortgagees current copies of the recorded condominium documents and the books, records and financial statements of the Association. "Available" shall mean ready for inspection, upon written request, during normal business hours or under other reasonable circumstances. Photocopies provided at the request of the mortgagee shall be at the expense of the mortgagee.

24.3 Financial Statement. Any Institutional Mortgagee is entitled, upon written request, to a financial statement of the Association for the immediately preceding fiscal year.

24.4 Lender's Notice. Upon written request to the Association, any Institutional Mortgagee shall be entitled to timely written notice of:

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

24.4.2 A lapse, cancellation or material modification of any insurance policy or fidelity bonds maintained by the Association.

24.4.3 Any proposed action that requires the consent of a specified percentage of mortgage holders.

25. AMENDMENT OF DECLARATION. Except as otherwise provided, all amendments to this Declaration may be proposed and adopted in the following manner:

25.1 Proposal of Amendments. An amendment may be proposed by the President of the Association, a majority of the Directors, or by twenty-five percent (25%) of the entire Voting Interests.

25.2 Proposed Amendment Format. Proposals to amend the existing Declaration of Condominium shall contain the full text of the article to be amended. New words shall be underlined and words to be deleted shall be ~~lined through~~ with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying, "SUBSTANTIAL REWORDING OF DECLARATION OF CONDOMINIUM. SEE ARTICLE NUMBER FOR PRESENT TEXT."

25.3 Notice. Copies of proposed amendments shall be included in the notice of any meeting at which a proposed amendment is to be considered or in connection with documentation for action without a meeting.

25.4 Adoption of Amendments. A resolution for the adoption of a proposed amendment may be adopted by a vote of a majority of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noticed meeting at which a quorum is present, or by the written agreement of a majority of the entire Voting Interests. Amendments correcting errors, omissions or scrivener's errors may be executed by the Officers of the Association, upon Board approval, without need for Association membership vote.

25.5 Effective Date. An amendment when adopted shall become effective after being recorded in the Lee County Public Records according to law.

25.6 Automatic Amendment. Whenever the Act, Chapter 617, Florida Statutes, or other applicable statutes or administrative regulations, as amended from time to time, are amended to impose procedural requirements less stringent than set forth in this Declaration of

Condominium, the Board may operate the Association pursuant to the less stringent requirements. The Board of Directors without a vote of the Owners, may adopt by majority vote, amendments to this Declaration of Condominium as the Board deems necessary to comply with such operational changes as may be enacted by future amendments to Chapters 607, 617, and the Act, or such other statutes or administrative regulations as required for the operation of the Association, all as amended from time to time.

25.7 Proviso. No amendment shall change the configuration of any Unit or the share in the Common Elements appurtenant to it, or increase the Owner's proportionate share of the Common Expenses, unless the record Owner of the Unit concerned and all record Owners of the mortgages on such apartment shall join in the execution of the amendment, and all other Unit Owners approve the amendment.

26. MISCELLANEOUS.

26.1 Covenants Running with the Land. The covenants and restrictions as herein contained, or forming a part of the Condominium Documents, shall be deemed to run with the land and shall run perpetually unless terminated or amended as provided herein.

26.2 Savings Clause. If any provision of the Condominium Documents hereto, as the same now exist or as may be later amended or any portion thereof, shall be held invalid by any Court, or other governmental agency with proper authority to so hold, the validity of the remainder of said Condominium Documents shall remain in full force and effect.

26.3 Heirs, Successors and Assigns. These Condominium Documents shall be binding upon the heirs, nominees, successors, administrators, executors and assigns of all Unit Owners.

26.4 Notices. All notices shall be given as provided in the By-Laws.

26.5 Compliance with Fair Housing Laws. There shall be no limitation upon sale, lease, or occupancy of any Unit based upon race, creed, color, sex, religion, national origin, or handicap. The Association may make reasonable accommodations, including reasonable waiver of the covenants and restrictions of the Condominium Documents, when necessary to afford handicapped individuals the opportunity to enjoy the Condominium premises, or to comply with other legal requirements.

26.6 Conflicts. In the event of a conflict between any provision of the Condominium Documents and the Condominium Act, the Condominium Act shall control, except in cases where the Act permits the Condominium Documents to regulate the subject, in which case the Condominium Documents will control. In the event of a conflict between this Declaration and the other Condominium Documents, same shall be governed as provided in the By-Laws.

26.7 Interpretation. The Board of Directors shall be responsible for interpreting the provisions of the Condominium Documents. The Board's interpretations shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by Association's legal counsel that an interpretation adopted by the Board is not wholly unreasonable shall conclusively establish the interpretation is valid.

26.8 Captions and Headings. The headings and captions used in the Condominium Documents are solely for convenience sake and shall not be considered a limitation of any nature in interpreting the Condominium Documents.

26.9 Waiver. No provisions contained in the Condominium Documents shall be deemed to have been waived because of any failure to enforce the same, irrespective of the number of violations or breaches, which may occur.

26.10 Plurality; Gender. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.

ACTIVE: 3544997_5

CONDOMINIUM PLAT BOOK PAGE SHEET NO. 2 of 9

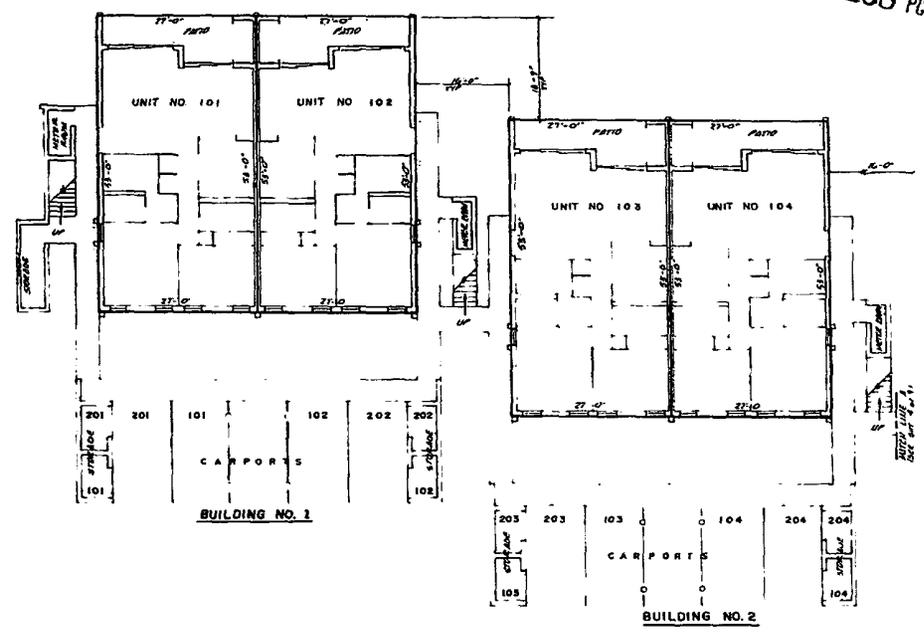
INK ENGINEERING, INC.
280 PROFESSIONAL PLACE
N. FORT MYERS, FLORIDA

EXHIBIT B ANNA MARIA A CONDOMINIUM

DATE: MARCH 1977
JOB NO. 2600
SCALE: 3/32" = 1'-0"

ADDERLYX, ALOIA
& DUDLEY
Attorneys & Counselors at Law
1714 STATE CORNL, P.O. BOX 113
CAPE CORNL, FLA. 33904
1-415-416-7723

OFF REC 1198 PG 449



FIRST FLOOR

Exhibit "A"
Page 2 of 9

ADDERLY, ALOIA
& DUDLEY
Attorneys & Counselors at Law
1718 COLLEGE AVENUE, SUITE 100
FORT MYERS, FLA. 33904
1-813-442-4715

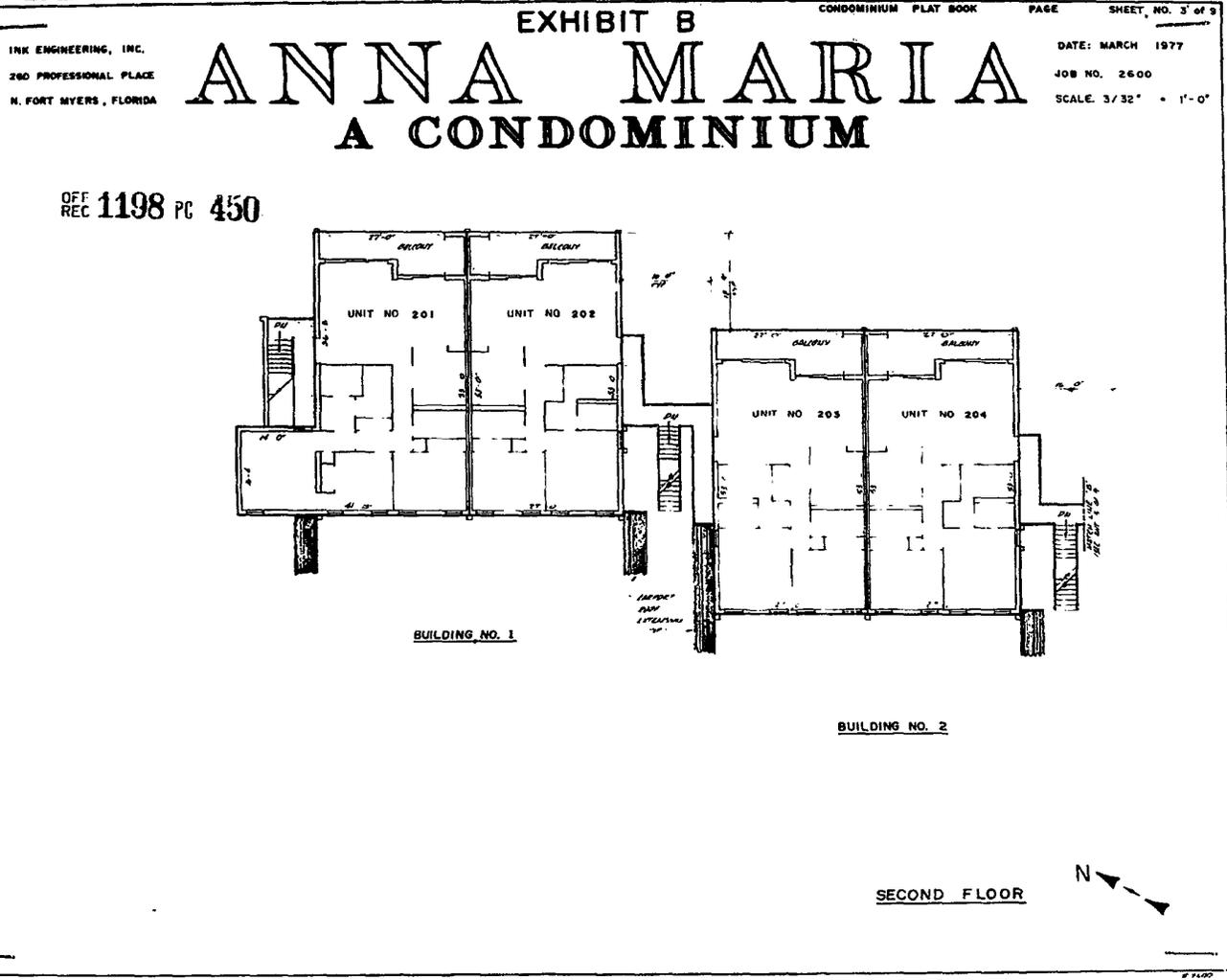


Exhibit "A"
Page 3 of 9

CONDOMINIUM PLAT BOOK PAGE SHEET NO. 4 of 9

EXHIBIT B

INK ENGINEERING, INC
260 PROFESSIONAL PLACE
N FORT MYERS, FLORIDA

ANNA MARIA A CONDOMINIUM

DATE MARCH 1977
JOB NO 2600
SCALE 3/32" = 1'-0"

OFF REC 1198 PG 451

ADDENY, ALOIA
& DUDLEY
Attorneys & Counselors at Law
TITLE CURVE CORP. TRUST
P. O. BOX 231
DADE COUNTY, FLORIDA
33108-0231

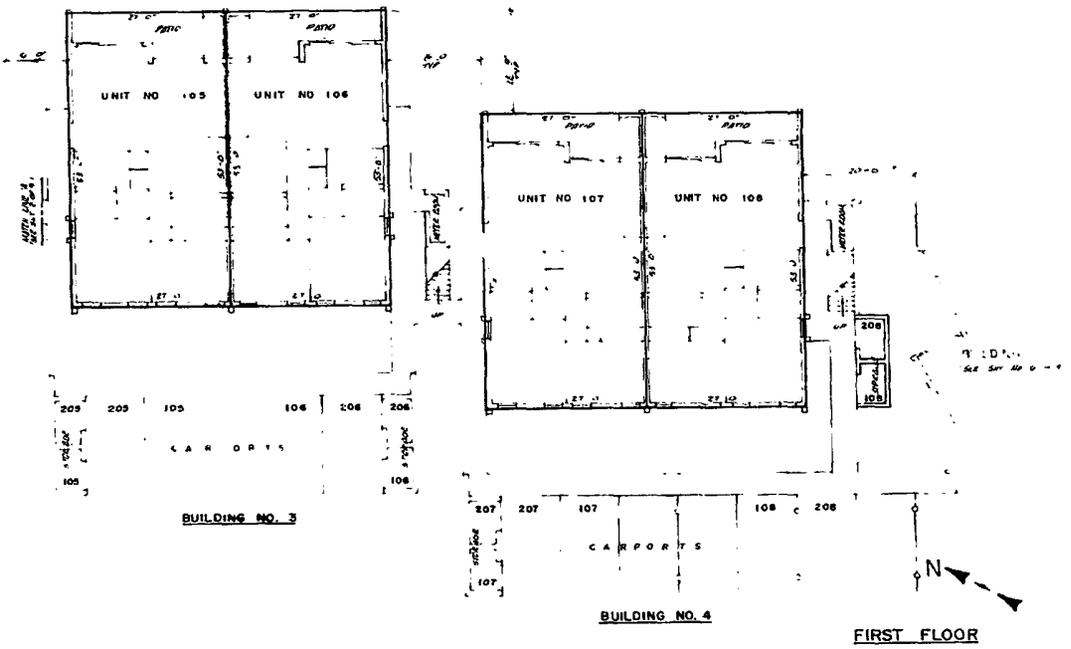


Exhibit "A"
Page 4 of 9

ADDERLY, ALONA
& DUDLEY
Attorney & Counsel at Law
1714 CAPE CORAL PKWY.
P. O. BOX 833
CAPE CORAL, FLA. 33904
1-813-342-0723

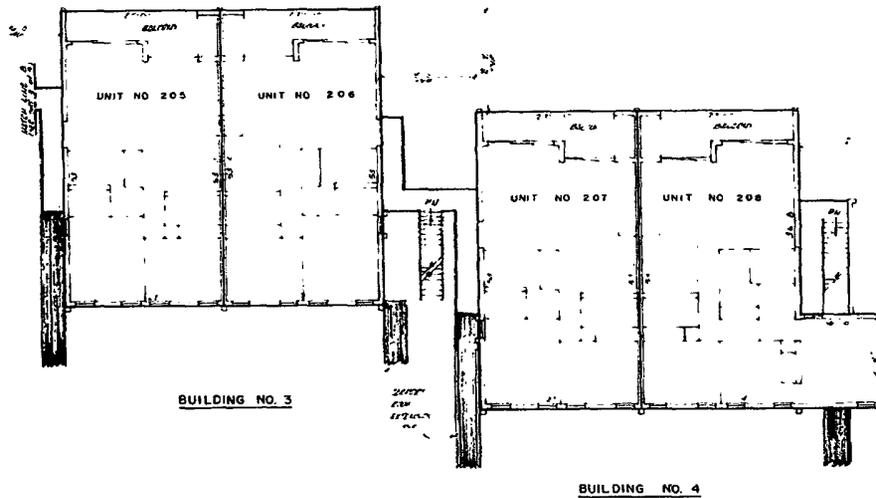
INK ENGINEERING, INC.
280 PROFESSIONAL PLACE
N FORT MYERS, FLORIDA

EXHIBIT B
ANNA MARIA
A CONDOMINIUM

CONDOMINIUM PLAT BOOK PAGE SHEET NO. 5 of 9

DATE MARCH 1977
JOB NO 2600
SCALE 3/32" = 1'-0"

OFF REC 1198 PG 452



SECOND FLOOR
N

Exhibit "A"
Page 5 of 9

ADDERLY, ALDIA
& DUNN
Attorneys & Counselors at Law
1714 CAPE CORAL, PRIVATE,
P. O. BOX 113
CAPE CORAL, FLA. 33914
(415)384-4751

INK ENGINEERING, INC
260 PROFESSIONAL PLACE
N FORT MYERS, FLORIDA

EXHIBIT B
ANNA MARIA
A CONDOMINIUM

CONDOMINIUM PLAT BOOK PAGE SHEET NO. 6 of 9

DATE MARCH 1977
JOB NO 2600
SCALE 3/32" = 1'-0"

UPI REC 1198 PC 453

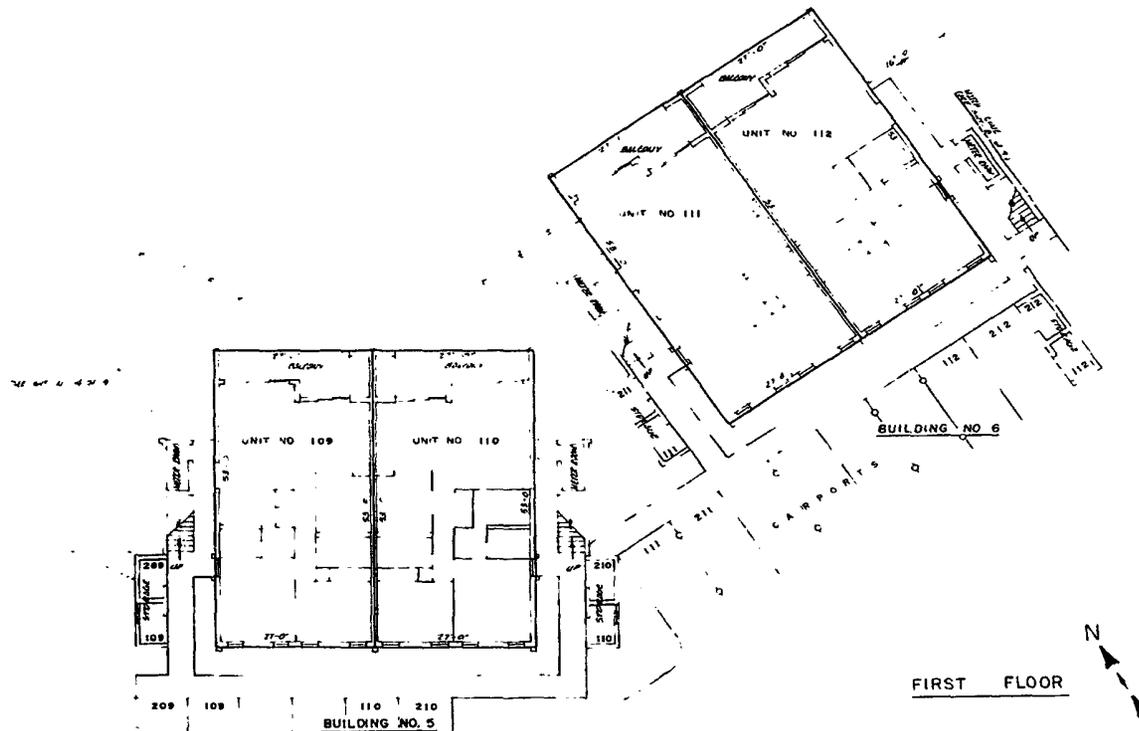


Exhibit "A"
Page 10 of 9

ADDERLY, ALOIA
& DUDLEY
Attorneys & Counselors at Law
1214 CAPE CORRAL DRIVE,
P. O. BOX 315
CAPE CORRAL, FLA. 3384
(813)282-1253

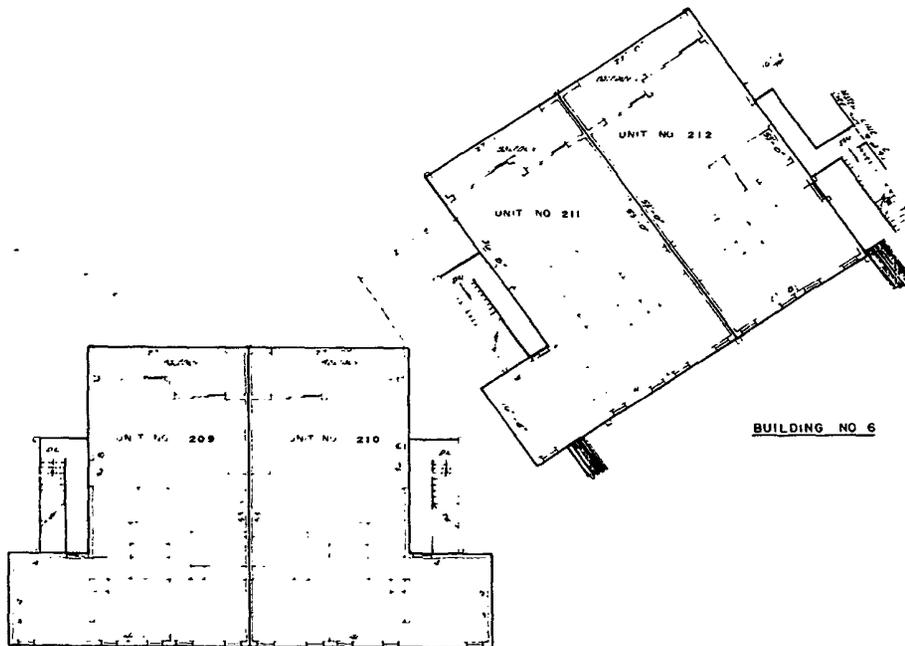
INK ENGINEERING, INC
260 PROFESSIONAL PLACE
N FORT MYERS, FLORIDA

EXHIBIT B
ANNA MARIA
A CONDOMINIUM

CONDOMINIUM PLAT BOOK PAGE SHEET NO. 7 of 9

DATE MARCH 1977
JOB NO 2600
SCALE 3/32" = 1'-0"

OFF REC 1198 PC 454



SECOND FLOOR

BUILDING NO 5

BUILDING NO 6

Exhibit "A"
Page 7 of 9

CONDOMINIUM PLAT BOOK PAGE SHEET NO 8 of 9

EXHIBIT B

INK ENGINEERING, INC
260 PROFESSIONAL PLACE
N FORT MYERS, FLORIDA

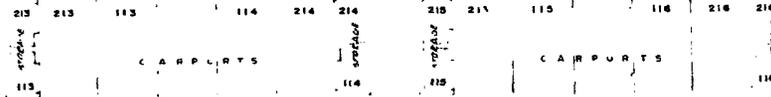
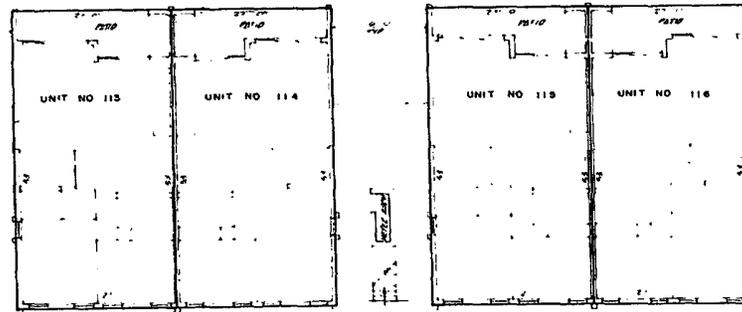
ANNA MARIA

A CONDOMINIUM

DATE MARCH 1977
JOB NO 2600
SCALE 3/32" = 1'-0"

UPI REC 1198 PG 455

ADDENDUM, ADOPTED
& DIVULGED
Attorneys & Counselors at Law
1714 STATE COLLEGE AVENUE
CORAL GABLES, FLA. 33134
1-458-2700



BUILDING NO. 7

BUILDING NO. 8

FIRST FLOOR



Exhibit "A"
Page 8 of 9

CONDOMINIUM PLAT BOOK PAGE SHEET NO. 9 of 9

EXHIBIT B

INK ENGINEERING, INC
260 PROFESSIONAL PLACE
N FORT MYERS, FLORIDA

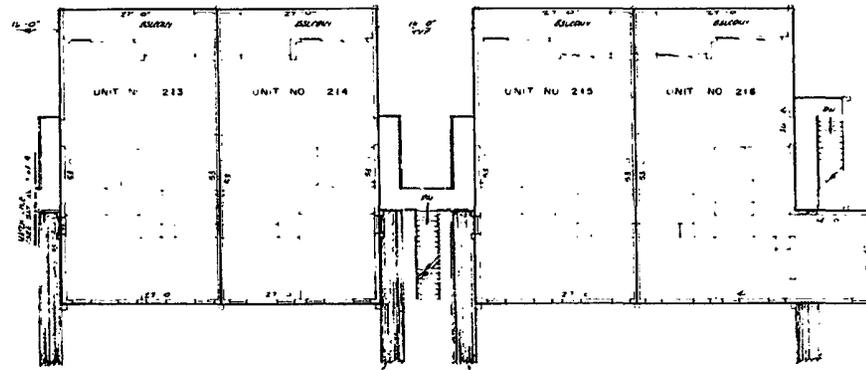
ANNA MARIA

A CONDOMINIUM

DATE MARCH 1977
JOB NO 2600
SCALE 3/32" = 1'-0"

OFF REC 1198 PC 456

ADDERTY, ALOIA
& DUDLEY
Attorneys & Counselors at Law
1715 COLLEGE AVENUE
S.W. FORT MYERS
FLORIDA 33901
1-813-341-4733



SECOND FLOOR



SECOND AMENDED AND RESTATED

ARTICLES OF INCORPORATION

OF

ANNA MARIA CONDOMINIUM ASSOCIATION, INC.

These are the Second Amended and Restated Articles of Incorporation for the Anna Maria Condominium Association, Inc. originally filed with the Florida Department of State the 15th day of February 1977, under Charter Number 738101. Matters of only historical interest have been omitted. Amendments included have been added pursuant to Chapter 617, Florida Statutes (2011).

1. NAME. The name of the corporation is ANNA MARIA CONDOMINIUM ASSOCIATION, INC. For convenience, the corporation shall be referred to in this instrument as the "Association," the Declaration of Condominium as "Declaration," these Articles of Incorporation as the "Articles," and the By-Laws of the Association as the "By-Laws."

2. PURPOSE. The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act (the "Act") for the operation of that certain Condominium located in Lee County, Florida, and known as Anna Maria Condominium (the "Condominium").

3. DEFINITIONS. The terms used in these Articles shall have the same definitions and meaning as those set forth in the Declaration and the Act, unless herein provided to the contrary, or unless the context otherwise requires.

4. POWERS. The powers of the Association shall include the following:

4.1 General. The Association shall have all of the common-law and statutory powers of a corporation not for profit under the Laws of Florida that are not in conflict with the provisions of the Declaration, these Articles or of the Act.

4.2 Enumeration. The Association shall have all the powers and duties set forth in the Act except as limited by the Declaration, these Articles, and the By-Laws (all as amended from time to time), and all of the powers and duties reasonably necessary to operate the Condominium including but not limited to the following:

4.2.1 To make and collect Assessments and other Charges against Members as Unit Owners, and to use the proceeds thereof in the exercise of its powers and duties.

Exhibit "B" to the Second Amended and Restated Declaration of Condominium
(Second Amended and Restated Articles of Incorporation)

Page 1 of 5

4.2.2 To buy, own, operate, lease, sell, and trade both real and personal property as may be necessary or convenient in the administration of the Condominium.

4.2.3 To maintain, repair, replace, reconstruct, add to, and operate the Condominium Property and other property acquired or leased by the Association.

4.2.4 To purchase insurance upon the Condominium Property and insurance for the protection of the Association, its Officers, Directors, Committee Members, and Members as Unit Owners.

4.2.5 To make and amend reasonable Rules and Regulations for the maintenance, conservation and use of the Condominium Property and for the recreation, comfort, and welfare of the Unit Owners, and the administration of the Association.

4.2.6 To approve or disapprove the leasing, transfer, mortgaging, ownership, and possession of Units as may be provided by the Declaration.

4.2.7 To enforce by legal means the provisions of the Act, other applicable laws, the Declaration, these Articles, the By-Laws, the Rules and Regulations, and the policies of the Association.

4.2.8 To contract for the management of the Condominium and any facilities used by the Unit Owners, and to delegate to the party with whom such contract has been entered into all of the powers and duties of the Association except those which require specific approval of the Board of Directors or the membership of the Association.

4.2.9 To employ personnel to perform the services required for proper operation of the Condominium.

4.2.10 To make contracts and incur liabilities, borrow money at such rates of interest as the Board may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage and pledge of all or any of its property, franchises, or income, including but not limited to Assessments.

4.3 Condominium Property. All funds and the titles of all properties acquired by the Association and their proceeds shall be held for the benefit and use of the Members in accordance with the provisions of the Act, the Declaration, these Articles and the By-Laws.

4.4 Distribution of Income. The Association shall make no distribution of income to its Members, Directors or Officers. This provision shall not apply to the distribution of insurance proceeds as provided in the Declaration, nor the distribution of proceeds affiliated with termination or condemnation, as provided in the Declaration and the Act.

Exhibit "B" to the Second Amended and Restated Declaration of Condominium
(Second Amended and Restated Articles of Incorporation)

Page 2 of 5

4.5 Limitation. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration, these Articles, the By-Laws and the Act.

5. MEMBERS. The Members of the Association shall consist of all of the record Owners of Units in the Condominium, and after termination of the Condominium shall consist of those who were Members at the time of the termination and their successors and assigns.

5.1 Assignment. The share of a Member in the funds and assets of the Association cannot be assigned, hypothecated, pledged or transferred in any manner except as an appurtenance to the Unit for which that share is held.

5.2 Voting. On all matters upon which the membership shall be entitled to vote, there shall be only one vote for each Unit, which vote shall be exercised or cast in the manner provided by the By-Laws. Any person or entity owning more than one Unit shall be entitled to one vote for each Unit owned. Those Members whose voting rights are suspended pursuant to the terms of the Condominium Documents and/or Florida Law shall not be entitled to cast the vote assigned to the Unit for which the suspension was levied during the period of suspension.

5.3 Meetings. The By-Laws shall provide for an annual meeting of Members, and may make provision for regular and special meetings of Members other than the annual meeting.

6. TERM OF EXISTENCE. The Association shall have perpetual existence.

7. OFFICERS. The affairs of the Association shall be administered by the Officers designated in the By-Laws. The Officers shall be elected by the Board of Directors of the Association at its first meeting following the annual meeting of the Members of the Association and shall serve at the pleasure of the Board of Directors. The By-Laws may provide for the removal from office of Officers, for filling vacancies, and for the duties of the Officers.

8. DIRECTORS.

8.1 Number and Qualification. The property, business and affairs of the Association shall be managed by a Board consisting of the number of Directors determined by the By-Laws, but which shall consist of not less than three (3) Directors.

8.2 Duties and Powers. All of the duties and powers of the Association existing under the Act, the Declaration, these Articles, the By-Laws and the Rules and Regulations (all as amended from time to time) shall be exercised exclusively by the Board of Directors, subject only to approval by Members when such approval is specifically required.

8.3 Election; Removal. Directors of the Association shall be elected at the annual meeting of the Members in the manner determined by the By-Laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws.

9. BY-LAWS. The By-Laws of this Corporation may be altered, amended, or repealed in the manner provided in the By-Laws.

10. AMENDMENTS. These Articles may be amended in the following manner:

10.1 Proposal of Amendments. An amendment may be proposed by the President of the Association, a majority of the Directors, or by twenty-five percent (25%) of the entire Voting Interests.

10.2 Proposed Amendment Format. Proposals to amend existing Articles of Incorporation shall contain the full text of the Article to be amended. New words shall be underlined and words to be deleted shall be ~~lined through~~ with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying, "SUBSTANTIAL REWORDING OF ARTICLE. SEE ARTICLE NUMBER __ FOR PRESENT TEXT."

10.3 Notice. Copies of proposed amendments shall be included in the notice of any meeting at which a proposed amendment is to be considered or in connection with documentation for action without a meeting.

10.4 Adoption of Amendments. A resolution for the adoption of a proposed amendment may be adopted by a vote of a majority of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noticed meeting at which a quorum is present, or by the written agreement of a majority of the entire Voting Interests. Amendments correcting errors, omissions or scrivener's errors may be executed by the Officers of the Association, upon Board approval, without need for Association membership vote.

10.5 Effective Date. An amendment when adopted shall become effective after being recorded in the Lee County Public Records according to law and filed with the Secretary of State according to law.

10.6 Automatic Amendment. These Articles shall be deemed amended, if necessary, so as to make the same consistent with the provisions of the Declaration of Condominium. Whenever the Act, Chapter 617, Florida Statutes or other applicable statutes or administrative regulations, as amended from time to time, are amended to impose procedural requirements less stringent than set forth in these Articles, the Board may operate the Association pursuant to the less stringent requirements. The Board of Directors without a vote of the Members, may adopt by majority vote, amendments to these Articles of Incorporation as the Board deems necessary to comply with such operational changes as may be enacted by future amendments to Chapters 607,

Exhibit "B" to the Second Amended and Restated Declaration of Condominium
(Second Amended and Restated Articles of Incorporation)

Page 4 of 5

617, and the Act, or such other statutes or administrative regulations as required for the operation of the Association, all as amended from time to time.

10.7 Proviso. Provided, however, that no amendment shall change the configuration of any Unit or the share in the Common Elements appurtenant to it, or increase the Owner's proportionate share of the Common Expenses, unless the record Owner of the Unit concerned and all record Owners of the mortgages on such apartment shall join in the execution of the amendment, and all other Unit Owners approve the amendment.

11. REGISTERED OFFICE ADDRESS AND NAME OF REGISTERED AGENT. The registered office address and the name of the registered agent of the corporation shall be as determined by the Board of Directors from time to time.

ACTIVE: 3556105_3

SECOND AMENDED AND RESTATED

BY-LAWS

OF

ANNA MARIA CONDOMINIUM ASSOCIATION, INC.

1. IDENTITY. These are the Amended and Restated By-Laws (hereinafter "By-Laws") of Anna Maria Condominium Association, Inc., a Florida not-for-profit Corporation formed for the purpose of administering Anna Maria Condominium (hereinafter "the Condominium") which is located in Cape Coral, Lee County, Florida, upon the lands described in the Declaration of Condominium. (The corporation may hereafter be referred to as the "Association.")

1.1 Office. The office of the Association shall be at such location within Lee County, as may from time to time be determined by the Board of Directors.

1.2 Fiscal Year. The fiscal year of the Association shall be the calendar year, unless otherwise determined by the Board of Directors.

1.3 Seal. The corporate seal of the Association shall be adopted and may be changed by the Board of Directors and shall bear the name or abbreviated name of the Association, the word "Florida," the year of establishment, and shall identify the Association as a not-for-profit corporation. A common seal may be used in lieu of a raised corporate seal and in no event shall a seal be required to validate corporate actions unless specifically required by law.

1.4 Definitions. All terms used in these By-Laws shall have the same meaning, to the extent applicable, as set forth in the Articles of Incorporation for the Association, the Declaration of Condominium and the Florida Condominium Act (Chapter 718, Florida Statutes, 2011), all as amended from time to time.

2. MEMBERS' MEETINGS.

2.1 Annual Meetings. Annual Members' meetings shall be held at such convenient location in Lee County as may be determined by the Board of Directors. The annual meeting shall be held on the date and time determined by the Board for the purpose of transacting any business authorized to be transacted by the Members.

2.2 Special Meetings. Special Members' meetings shall be held whenever called by the President or by a majority of the Board of Directors, and shall be called by the President or Secretary within a reasonable time of receipt of written notice from 25% of the Voting Interests of the Association. Members' meetings to recall a Member or Members of the Board of

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 1 of 21

Directors may be called by 10% of the Voting Interests of the Association who shall give notice of the meeting, stating the purpose of the meeting, pursuant to Section 718.112(2)(j) of the Act.

2.3 Notice of Members' Meetings. Notice of all Members' meetings, stating the time, place, and purpose(s) of the meeting, shall be sent to each Member by United States regular mail, unless waived in writing, at least 14 days prior to the meeting as to annual meetings and 10 days as to special meetings. Hand delivery and electronic notice is acceptable where permissible by law. Officers required to give notice may delegate the actual giving of notice to another person, such as an Assistant Officer or managing agent. Any Members' meeting or election at which one or more Directors are to be elected must be noticed as provided for in Section 2.4 below. An Officer of the Association or other person providing notice shall execute an affidavit of mailing per Section 718.112(2)(d)(3) of the Act, which shall be retained in the official records of the Association as proof of such mailing. The notice of the annual meeting shall include an agenda for all known substantive matters to be discussed, or have such an agenda attached to it. A copy of the notice and agenda shall be posted at a conspicuous location, designated by Board resolution, on the Condominium Property at least 14 days in advance of the meeting.

Notice of specific meetings may be waived before or after the meeting and the attendance of any Member (or person authorized to vote for such Member) shall constitute such Member's waiver of notice of such meeting, except when his (or his authorized representative's) attendance is for the sole and express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

2.4 Board of Directors Election Meetings - Notice and Procedure. The regular election of Directors shall occur as the first item of business at the annual meeting.

2.4.1 Not less than 60 days before a scheduled election, the Association shall mail, or deliver, whether by separate Association mailing or included in another Association mailing or delivery including regularly published newsletters, to each Member entitled to vote, a first notice of the date of the election. Any person desiring to be a candidate for the Board of Directors shall give written notice to the Association not less than 40 days before scheduled election. Not less than 14 days before the election, the Association shall mail or deliver a second notice of the election to all Members entitled to vote therein, together with a written secret ballot containing the names of all properly pre-qualified candidates which shall include an information sheet (if provided by the candidate), no larger than 8½ inches by 11 inches furnished by the candidate, to be included with the mailing of the ballot, with the costs of mailing and copying to be borne by the Association.

2.4.2 There is no quorum requirement necessary for an election. However, at least twenty percent (20%) of the Voting Interests must cast a ballot in order to have a valid election and elections shall be decided by a plurality of those votes cast.

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 2 of 21

2.4.3 In the event that there are only as many (or fewer) candidates pre-qualified for election as there are open seats on the Board, no election shall be held and the pre-qualified candidates shall automatically become Members of the Board after the annual meeting.

2.4.4 The Board may establish additional election rules or procedures as it deems appropriate to ensure a fair election process. Substantial compliance with these By-Laws and the Act relative to election procedures is sufficient.

2.5 Quorum/Voting. A quorum at Members' meetings shall consist of persons entitled to cast a majority of the Voting Interests of the entire membership. Those Members whose voting rights are suspended pursuant to the terms of the Condominium Documents and/or Florida Law shall be subtracted from the required number of votes in any calculation for purposes of determining whether a quorum is present during the period of suspension and such Voting Interests shall likewise be subtracted from the required number of votes when calculating any required vote as set forth in the Condominium Documents or the Act. Decisions made by a majority of the Voting Interests present and voting, in person or by proxy, at a meeting at which a quorum is present shall be binding and sufficient for all purposes except such decisions as may be required by the Act or the Condominium Documents require a larger percentage in which case the percentage required in the Act, or the Condominium Documents shall govern. To the extent lawful, Members may join in any action taken at a meeting of the Members through written approval of such action executed after the meeting, and such approval shall be as though the Member duly approved the action of the meeting in question.

2.5.1 Units Owned by Association. No Voting Interest or consent right allocated to a Unit owned by the Association shall be exercised or considered for any purpose, whether for a quorum, an election or otherwise, as provided in Section 718.112(2)(b)2. of the Act.

2.6 Indivisible Vote. Each Unit shall have one indivisible vote. If a Unit is owned by multiple individuals, such as a husband and wife, any record Owner may vote on behalf of the Unit. If a Unit is owned by a corporation, any officer may vote on behalf of said corporation. If a Unit is owned by a partnership, any general partner may vote on behalf of the partnership. If a Unit is owned in trust, any trustee of a trust shall be entitled to vote. If a Unit is owned by a limited liability company, any member or manager may vote on behalf of the limited liability company. Any person with apparent authority asserting the right to vote on behalf of a Unit owned by an artificial entity shall be conclusively presumed to be entitled to vote on behalf of said Unit, unless the Unit has filed voting instructions with the Association designating some other person entitled to vote. If multiple Owners or non-individual Owners of a Unit cannot agree on a vote, the vote shall not be counted as to the issue upon which disagreement exists. Voting certificates are not necessary. No individual may cast a vote assigned to a Unit where the voting rights assigned to the Unit are suspended pursuant to the terms of the Condominium Documents and/or Florida Law.

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 3 of 21

2.7 Voting/Proxies. Votes may be cast in person or by proxy. Only Members or the spouse of a Member may be delegated to hold proxies, provided that the Board may designate agents of the Association (including but not limited to association legal counsel or the association's manager) as an eligible proxyholder. Proxies shall be in writing, signed and dated, and shall be valid only for the particular meeting designated therein or an adjournment thereof, but in no event for more than 90 days, and must be filed with the Association before or at the voter registration immediately preceding the meeting, or adjournment thereof. Except as specifically otherwise provided by law, Members may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the Division of Florida Condominiums, Timeshares and Mobile Homes. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes regarding reserves; for votes taken to waive financial statement requirements; for votes taken to amend the Declaration; for votes taken to amend the Articles of Incorporation or By-Laws; and for any other matter which the Act requires or permits a vote of the Members. To the extent permissible by law, it is the intent of these By-Laws that Members who are given the opportunity to vote by limited proxy, but decline to do so, may grant general powers (including the right to vote with respect to designated agenda items) to the holder of their proxy. No proxy, limited or general, shall be used in the election of Board Members. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for non-substantive changes to items for which a limited proxy is required and given. A photographic, photostatic, facsimile, electronic or equivalent reproduction of a signed proxy is a sufficient proxy. Owners may retroactively cure any alleged defect in a proxy by signing a statement ratifying the Owner's intent to cast a proxy vote. The use of proxies is to be liberally construed.

2.8 No Quorum/Adjournment. If any meeting of Members cannot be organized because a quorum is not present, or if insufficient Voting Interests are represented to approve a proposed item of Association business, or in any case where a majority of the Voting Interests present (in person or by proxy) so agree, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, or enough votes can be cast to decide a question, or the meeting can be re-convened consistent with the intention of the Members in their approval of the adjournment.

2.9 Order of Business. The order of business at annual Members' meetings and, as far as applicable at all other Members' meetings, shall be:

2.9.1 Call to order by the President;

2.9.2 At the discretion of the President, appointment by the President of a chairman of the meeting (who need not be a Member or a Director);

2.9.3 Appointment by the Chair of inspectors of election;

2.9.4 Election of Directors;

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 4 of 21

2.9.5 Calling of the roll, certifying of proxies and determination of a quorum; or, in lieu thereof, certification and acceptance of registration procedures establishing the number of persons present in person or by proxy;

2.9.6 Proof of notice of the meeting or waiver of notice;

2.9.7 Disposal of unapproved minutes;

2.9.8 Reports of Officers;

2.9.9 Reports of Committees;

2.9.10 Unfinished business;

2.9.11 New business;

2.9.12 Adjournment.

2.10 Action Without a Meeting. Anything to the contrary herein notwithstanding, to the extent lawful, any action required to be taken at any annual or special meeting of Members, or any action which may be taken at any annual or special meeting of such Members, may be taken without a meeting, without prior notice, and without a vote if a consent in writing setting forth the action so taken, shall be signed by the requisite number of Voting Interests to approve the action.

3. BOARD OF DIRECTORS.

3.1 Number, Term, and Qualifications. The affairs of the Association shall be governed by a Board composed of five (5) Directors. However, if there are fewer than four (4) candidates prequalified for any election, the Board may vote at a duly noticed Board meeting held at least seven (7) days in advance of the election to reduce the size of the Board for that particular year to three (3). The size of the Board shall return to five (5) Directors the following year, though the Board may vote to reduce the size of the Board on an annual basis if less than four (4) pre-qualified candidates are available. In no event shall the Board be composed of less than three (3) Directors. All Directors shall be Members or the spouse of a Member. If provided in the Act as amended from time to time, co-owners of a Unit cannot simultaneously serve on the Board, except as permitted by the Act. No more than one natural person may represent any one Unit on the Board at any given time. When a Unit is owned by a corporation, a partnership, limited liability company or similar entity, the Primary Occupant, as designated pursuant to the Declaration of Condominium, and the spouse of the Primary Occupant shall be eligible for Board membership. If the Unit is excused from designation of a Primary Occupant because the entity held title before the effective date of this provision, then any eligible voter, as described in Section 2.6 shall be eligible for Board service. Trustees and beneficiaries of trusts (provided that

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 5 of 21

the beneficiaries reside in the Unit), and the spouses of such persons, shall be considered eligible for Board membership. Persons who have been convicted of any felony in this State or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction that would be considered a felony if committed in this State, are not eligible to serve on the Board, unless such felon's rights have been restored for a period of at least 5 years as of the date on which such person seeks election to the Board. A person who has been suspended or removed by the Division of Florida Condominiums, Timeshares, and Mobile Homes pursuant to the Act, or who is more than 90 days delinquent in the payment of any fee, fine, or special or regular assessment is not eligible for Board membership. All Directors will be elected for a one (1) year term. Resignations of Directors are effective when received by the Association in writing, unless a later date is stated.

3.2 Board Vacancies. Vacancies in the Board of Directors shall be filled by appointment by a majority vote of the remaining Directors for the remainder of the unexpired term as provided in Section 3.1; provided that when a Director has been recalled by the membership, the vacancy created by his removal cannot be filled with the same person as has been removed from the Board, and when a majority of the Board has been recalled, vacancies shall be filled by the membership, as provided by law.

3.3 Organizational Meeting. The organizational meeting of each newly-elected Board of Directors to elect Officers shall be held at such place and time as shall be fixed by the Directors, provided a quorum shall be present. Unless otherwise noticed, the organizational meeting shall be held immediately following the annual meeting of the Members.

3.4 Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings, unless fixed by Board resolution, shall be given to each Director personally or by mail, electronic mail, telephone, or facsimile at least two days prior to the day named for such meeting.

3.5 Special Meetings. Special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of any two (2) Directors. Not less than two days' notice of the meeting (except in an emergency) shall be given to each Director personally or by mail, electronic mail, telephone, or facsimile, which notice shall state the time, place, and purpose of the meeting. Twenty percent (20%) of the Voting Interests may petition for the Board to take up an item of business at a regular or special meeting of the Board. Such meeting must be held within 60 days of receipt of the petition. The Board is not required to take any particular action as a result of such petitions.

3.6 Waiver of Notice. Any Director may waive notice of a meeting before, at, or after the meeting and such waiver shall be deemed equivalent to the giving of notice. Attendance by a Director at a meeting shall constitute waiver of notice of the meeting.

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 6 of 21

3.7 Notice to Owners of Board Meetings. Notice of meetings, which notice shall specifically include an agenda, shall be posted conspicuously as provided in Section 2.3 of these By-Laws at least 48 continuous hours in advance of the meeting for the attention of Members, except in an emergency. If closed circuit television is available, the Board may use same for posting notices, as permitted by law. Meetings at which a regular monthly or quarterly Assessment or Special Assessment is to be considered shall specifically state that Assessments will be considered and the nature, estimated cost, and description of the purpose for such Assessments. However, written notice of any meeting at which non-emergency special assessments, or at which amendment to rules regarding Unit use will be considered, or where the Board will establish the deductible feature of the Association's insurance policies, shall be mailed or delivered (including electronic delivery as provided by law) to the Members and posted conspicuously as provided in Section 2.3 of these By-Laws not less than 14 continuous days prior to the meeting. Evidence of compliance with this 14-day notice shall be by an affidavit executed by the person giving notice, where required by law, and shall be filed among the official records of the Association.

3.8 Owner Participation in Board Meetings. Meetings of the Board of Directors at which a majority of the Board Members are present, shall be open to all Members. Members may not designate third persons, through power of attorney or otherwise, to attend Board meetings, unless agreed to otherwise by the Board. The Member's right to attend Board meetings includes the right to speak with reference to all designated agenda items; provided, however, the Board may adopt reasonable rules governing the frequency, duration, and manner of Member statements. Unless otherwise provided by the Board, each Member is entitled to speak for three minutes with reference to designated agenda items. Board meetings subject to the attorney-client privilege and Board meetings involving personnel matters shall not be subject to Member attendance.

3.9 Board Meetings, Quorum, and Voting. The designation of the agenda for Board meetings shall be at the discretion of the President. However, the President shall be obligated to include any item on the agenda for a Board meeting, if requested, in writing, by two Board Members, and where required due to petition from twenty percent (20%) of the Voting Interests. A quorum at Directors' Meetings shall consist of a majority of the Directors. The acts approved by a majority of the Board of Directors present and voting at a meeting shall constitute the acts of the Board. Directors may not vote by proxy or by secret ballot at Board meetings (except that Directors may vote by secret ballot when electing Officers) and a vote or abstention for each Member present shall be recorded in the minutes. A Director of the Association who abstains from voting on any action taken on any corporate matter shall be presumed to have taken no position with regard to the action. If at any meeting of the Board there be less than a quorum present, or if a quorum exists and a majority of the Directors so approve, the Director(s) present may adjourn the meeting from time to time until a quorum is present and no further notice need be given except for announcement at the meeting as to the date, time, and place of the adjournment. At any adjourned meeting, any business which might have been transacted at

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 7 of 21

LAW OFFICES
BECKER & POLIAKOFF, P.A.
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966
TELEPHONE (239) 433-7707

the meeting as originally called may be transacted. Absent Directors may later sign written joinders in Board actions, but such joinders may not be used for purposes of creating a quorum or counted as official vote for the Board's meeting. Directors may participate telephonically in Board meetings, as provided by law.

3.10 Presiding Officer. The presiding Officer at Directors' meetings shall be the President, and in his absence, the Vice President. In the absence of the presiding Officer, the Directors present shall designate one of their number to preside.

3.11 Director Compensation. Directors shall serve without pay but shall be entitled to reimbursement for expenses reasonably incurred.

4. POWERS AND DUTIES OF THE BOARD OF DIRECTORS. All of the powers and duties of the Association existing under the laws of Florida generally, Florida Not For Profit Corporation Statute, the Condominium Act, and the Condominium Documents, all as amended from time to time, shall be exercised exclusively by the Board of Directors, or its duly authorized agents, contractors, or employees, when said powers and duties have been delegated by the Board, subject only to the approval by Members when such is specifically required. The powers of the Directors shall include, but shall not be limited to, the power:

4.1 To Assess. The Directors shall adopt budgets and make and collect special and periodic Assessments against Owners to defray the costs of the Association.

4.2 To Expend Association Funds. The Directors shall use the proceeds of Assessments in the exercise of its powers and duties.

4.3 To Maintain The Condominium Property. The Directors shall maintain, repair, replace, and operate the property within the Condominium.

4.4 To Adopt Regulations. The Directors shall enact and may amend Rules and Regulations concerning the transfer, use, appearance, maintenance, and occupancy of the Units, Common Elements, Limited Common Elements, and Association Property, and to enact rules, policies, and resolutions pertaining to the operation of the Association, subject to any limitations contained in the Declaration of Condominium.

4.5 To Reconstruct After Casualty. The Directors may reconstruct the Units, Common Elements, Limited Common Elements, and Association Property improvements after casualty and to further improve the property, as specified in the Declaration of Condominium.

4.6 To Approve Transfers. The Directors may approve or disapprove proposed transactions or transfers in the manner provided by the Declaration of Condominium, and to charge a preset fee, not to exceed the maximum permissible by law, in connection with such right of approval. In connection with the lease of Units, the Board may require the posting of a

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 8 of 21

security deposit to protect against damages to the Common Elements or Association Property, in the manner provided by law.

4.7 To Enforce. The Directors may enforce by legal means the provisions of applicable laws and the Condominium Documents, and may interpret the Condominium Documents, as the final arbiter of their meaning, unless such interpretation is wholly arbitrary, or contrary to law.

4.8 To Contract. The Directors may contract for management, maintenance, and operation of the Condominium.

4.9 To Insure. The Directors shall carry insurance for the protection of the Members and the Association, pursuant to requirements contained in the Declaration of Condominium and the Act.

4.10 To Pay Utility Bills. The Directors shall pay the cost of all utility services rendered to the Condominium and not billed to Owners of individual Units.

4.11 To Hire and Discharge. The Directors may employ personnel and designate other Officers to be paid a reasonable compensation and grant them such duties as seem appropriate for proper administration of the purposes of the Association.

4.12 To Sue and Be Sued. The Directors may bring and defend suits and other proceedings and may exercise its business judgment as to whether the interests of the Association are best served with respect to settlement of a matter or whether a suit or other proceeding should be commenced.

4.13 To Deal in Real and Personal Property. The Directors may make and execute contracts, deeds, mortgages, notes and other evidence of indebtedness, leases, and other instruments by its Officers, and may purchase, own, lease, convey, and encumber real and personal property subject to the provisions of the Declaration. The Directors may grant or modify easements and licenses over the Condominium Property necessary or desirable for proper operation of the Condominium.

4.14 To Enter Into Contracts for Products and Services. All contracts for the purchase, lease, or renting of materials or equipment, or which are not to be fully performed within one year, and all contracts for services shall be in writing. As to any such contract which requires payment exceeding 5% of the gross budget (including reserves) except for contracts with employees of the Association, attorneys, accountants, architects, engineers, landscape architects, and community association managers, the Association shall obtain competitive bids unless the products and services are needed as the result of an emergency, or unless the desired supplier is the only source of supply within the County serving the Association. The Association need not accept the lowest bid. If a contract was awarded under the competitive bid procedures

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 9 of 21

of this Section, any renewal of that contract is not subject to such competitive bid requirements if the contract contained a provision that allowed the Board to cancel a contract on thirty days' notice. Materials, equipment, or services provided to a condominium under a local government franchise agreement by a franchise holder are not subject to the competitive bid requirements of this Section.

4.15 To Levy Fines. The Directors may, pursuant to Section 718.303 of the Act, impose fines against a Unit not to exceed the maximum permissible by law, and/or suspend the right to use Common Elements, as permitted by the Act, for failure to comply with the provisions of the Board policies and resolutions, the Condominium Documents, including the Rules and Regulations, and applicable laws by Members, their Families, Occupants, Tenants, and Invitees.

4.15.1 A fine may be imposed for each day of continuing violation at the highest rate allowed by law per violation with a single notice and opportunity for hearing, provided that no fine shall in the aggregate exceed the maximum amount permissible by law. A suspension shall be levied and enforceable for a reasonable amount of time, as determined by the Board of Directors, and subject to the approval of the independent committee specified in Article 4.15.3 hereof.

4.15.2 The party against whom the fine and/or suspension is sought to be levied shall be afforded an opportunity for hearing by being given notice of not less than twenty (20) days. Notice shall be effective when mailed by United States Mail, certified, return receipt requested, to the address of the Member listed in the official records of the Association, and as to Tenants, to the mailing address for the Unit. Said notice shall include:

- (a) A statement of the date, time, and place of the hearing;
- (b) A statement of the provisions of the Declaration, Articles of Incorporation, By-Laws, Rules and Regulations, Board policies and resolutions, or laws which have allegedly been violated; and,
- (c) A short and plain statement of the matters asserted by the Association.

4.15.3 The party against whom the fine and/or suspension may be levied shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. The hearing shall be held before a Committee of Members appointed by the Board, which may not include Board Members nor persons residing in a Board Member's household. If the Committee does not agree with the fine and/or suspension, the fine and/or suspension may not be levied. Should the Association be required to initiate legal proceedings to collect a duly levied fine, or enforce a duly imposed suspension, the prevailing party in an action to collect said fine shall be entitled to an award of costs, and a

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 10 of 21

reasonable attorney's fee incurred before trial (including in connection with the preparation for and conduct of fining and/or suspension hearings), at trial, and on appeal. Members shall be jointly and severally liable for the payment of fines levied against and/or suspension imposed upon Tenants, Guests, Invitees, or other Occupants of a Unit.

4.16 To Appoint Committees. The Directors may appoint Committees and delegate to such Committees those powers and duties of the Association as the Board deems advisable. All Committees and Committee Members shall serve at the pleasure of the Board. Committees of the Association as defined in Section 718.103(7) of the Act, shall conduct their affairs in the same manner as provided in these By-Laws for Board of Director meetings. All other Committees may meet and conduct their affairs in private without prior notice or Owner participation, unless otherwise directed by the Board of Directors.

4.17 To Ensure Fire Safety Compliance. The Directors may accept a Certificate of Compliance from a licensed electrical contractor or electrician as evidence of compliance of the condominium Units with the applicable Fire and Life Safety Code.

4.18 To Approve the Installation of Hurricane Shutters. The Directors shall adopt hurricane shutter specifications for the Condominium which shall include color, style, and other factors deemed relevant by the Board. All specifications adopted by the Board shall comply with the applicable building code, or shall be structured to ensure that installed shutters are in compliance with the applicable building code. The Board shall not refuse to approve the installation or replacement of hurricane shutters conforming to the specifications adopted by the Board, provided that the Board may condition approval upon the Member's agreement to execute appropriate documentation regarding same.

4.19 To Exercise Emergency Powers. In the event of any "emergency" as defined in Paragraph 4.19.10 below, the Board of Directors may exercise the emergency powers described in this Section, and any other emergency powers authorized by Section 617.0207, Florida Statutes (2011), Section 617.0303, Florida Statutes (2011), and Section 718.1265 of the Act, all as amended from time to time.

4.19.1 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.

4.19.2 The Board may relocate the principal office or designate alternative principal offices or authorize the Officers to do so.

4.19.3 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

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 11 of 21

practicable manner, including publication or radio. The Director or Directors in attendance at such a meeting shall constitute a quorum.

4.19.4 The Board may change or postpone the annual meeting date to a date and time determined by the Board, even if such change will result in not holding an annual meeting in a particular calendar year, as long as the annual meeting is held no more than eighteen (18) months after the prior annual meeting date.

4.19.5 Corporate action taken in good faith during an emergency under this Section to further the ordinary affairs of the Association shall bind the Association; and shall have the rebuttable presumption of being reasonable and necessary.

4.19.6 The Board may use reserve funds to meet Association needs, and may use reserve funds as collateral for Association loans. The Board may adopt emergency assessments with such notice deemed practicable by the Board.

4.19.7 The Board may adopt emergency Rules and Regulations governing the use and occupancy of the Units, Common Elements, Limited Common Elements, and Association property, with notice given only to those Directors with whom it is practicable to communicate.

4.19.8 Any Officer, Director, or employee of the Association acting with a reasonable belief that his actions are lawful in accordance with these emergency By-Laws shall incur no liability for doing so, except in the case of willful misconduct.

4.19.9 These emergency By-Laws shall supersede any inconsistent or contrary provisions of the By-Laws during the period of the emergency.

4.19.10 For purposes of this Section only, an “emergency” exists only during a period of time that the Condominium, or the immediate geographic area in which the Condominium is located, is subjected to:

4.19.10.1 a state of emergency declared by local civil or law enforcement authorities;

4.19.10.2 a hurricane warning;

4.19.10.3 a partial or complete evacuation order;

4.19.10.4 federal or state “disaster area” status;

4.19.10.5 a catastrophic occurrence, whether natural or manmade, which seriously damages or threatens to seriously damage the physical existence of the condominium, such as an earthquake, tidal wave, fire, hurricane, tornado, war, civil unrest, or act of terrorism; or,

Exhibit “C” to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 12 of 21

4.19.10.6 an unanticipated set of circumstances, which, if not acted upon with immediacy, is likely to cause imminent and significant financial harm to the Association, the Members, the Condominium Property, or Association Property.

4.20 To Enter Into Contracts and Borrow Money. The Directors may make contracts and incur liabilities, borrow money at such rates of interest as the Association may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage and pledge of all or any of its property, franchises, or income.

5. OFFICERS.

5.1 Executive Officers. The executive Officers of the Association shall be the President, one or more Vice Presidents, a Secretary and a Treasurer, all of whom shall be elected annually by and from the Board of Directors, and who may be peremptorily removed by a majority vote of the Directors at any meeting. Any person may hold two or more offices except that the President shall not also be the Secretary. The Board of Directors may also appoint such Assistant Officers as may be desired. Assistant Officers need not be Directors.

5.2 President — Powers and Duties. The President shall be the Chief Executive Officer of the Association, shall preside at all meetings of the Board of Directors and Association meetings. The President shall have general supervision over the affairs of the Association and shall have all of the powers and duties which are usually vested in the office of President of a corporation.

5.3 Vice-President — Powers and Duties. The Vice-President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

5.4 Secretary — Powers and Duties. The Secretary shall keep the minutes of all proceedings of the Directors and the Members. He shall attend to the giving and serving of all notices to the Members and Directors and other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep and have custody of the records of the Association, except those of the Treasurer. He shall perform all other duties incident to the office of Secretary of the Association and as may be required by the Directors or the President.

5.5 Treasurer — Powers and Duties. The Treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He shall keep the Assessment rolls and accounts of the Members. He shall keep the books of the Association in accordance with good accounting practices and shall perform all other duties incident to the office of the Treasurer of a corporation.

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 13 of 21

5.6 Officers' Compensation. Officers shall not be entitled to compensation for service as such, but shall be entitled to reimbursement of expenses reasonably incurred. This provision shall not preclude the Board of Directors from employing an Officer or Director as an agent or employee of the Association.

6. INDEMNIFICATION.

6.1 Indemnity. The Association shall indemnify any Officer, Director, or Committee Member who was or is a party 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 the fact that he is or was 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 by him in connection with such action, suit, or proceeding, unless (i) a court of competent jurisdiction finally determines, after all appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or in a manner he 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 he had reasonable cause to believe his conduct was unlawful, and (ii) 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 failed to act in good faith and in a manner which he 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 his 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 Officers, Directors, and Committee Members as permitted by Florida law.

6.2 Defense. To the extent that a Director, Officer, or Committee Member of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 6.1 above, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees and appellate attorney's fees) actually and reasonably incurred by him in connection therewith.

6.3 Advances. Reasonable expenses incurred in defending a civil or criminal action, suit, or proceeding shall be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon receipt of an undertaking by or on behalf of the affected Director, Officer, or Committee Member to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Association as authorized by this Article 6.

6.4 Miscellaneous. The indemnification provided by this Article 6 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 14 of 21

under any By-Law, agreement, vote of 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.

6.5 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 duty to indemnify him against such liability under the provisions of this Article.

7. MINUTES AND INSPECTION OF RECORDS. Minutes of all meetings of Members and of the Board of Directors shall be kept in a business-like manner. These, plus records of all receipts and expenditures and all other official records, as defined in Section 718.111(12) of the Act, shall be available for inspection by Members and Board Members at all reasonable times. Provided, however, that the Directors may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and any copying.

8. FISCAL MANAGEMENT.

8.1 Budget. The budget shall be adopted by the Board. A proposed annual budget of Common Expenses and anticipated revenues shall be prepared by the Board of Directors which shall include all anticipated income/revenue and expenses for operation, maintenance, and administration of the Condominium. The proposed budget may also include expenses of security, in-house communications, Directors and Officers insurance, transportation services, bulk cable or master antenna television, and interior pest control, all of which are declared to be Common Expenses under these By-Laws. The proposed budget shall include reserves per Section 718.112(2)(f)2 of the Act, the funding of which may be waived or reduced by a vote of a majority of the Voting Interests present (in person or by proxy) and voting at a duly noticed meeting of the Association, or by written agreement of a majority of the entire Voting Interests. Reserve funds and any accrued interest on the funds shall remain in the reserve account for authorized reserve expenditures, unless their use for other purposes is approved in advance by a vote of the majority of the Voting Interests present (in person or by proxy) and voting at a duly called meeting of the Association, or by the written approval of a majority of the entire Voting Interests. The budget may contain a reasonable allowance for contingencies and provide funds for all operating expenses previously incurred. If at any time a budget shall prove insufficient, it may be amended by the Board of Directors for the remaining portion of the fiscal year, provided that notice of the Board meeting at which the revised budget will be considered along with a copy of the proposed revisions to the budget shall be mailed to each Member as provided in Section 8.2 hereof.

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 15 of 21

If an adopted budget requires Assessments against the Units in any fiscal year which exceed 115 percent of the Assessments for the preceding fiscal year, the Board shall conduct a special meeting of the Members to consider a substitute budget if the Board receives, within 21 days after adoption of the annual budget, a written request for a special meeting from at least 10 percent of all Voting Interests. The special meeting shall be conducted within 60 days after adoption of the annual budget. At least 14 days prior to such special meeting, the Board shall hand deliver to each Member or mail to each Member at the address last furnished to the Association, a notice of the meeting. An Officer or manager of the Association, or other person providing notice of such meeting shall execute an affidavit evidencing compliance with this notice requirement. Such affidavit shall be filed among the official records of the Association. At the special meeting, Members shall consider and enact a substitute budget. The adoption of the substitute budget requires a vote of not less than a majority vote of all the Voting Interests. If a meeting of the Members has been called and a quorum is not attained or a substitute budget is not adopted by the Members, the budget adopted by the Board of Directors goes into effect as scheduled. In determining whether Assessments exceed 115 percent of similar Assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the Condominium Property, anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis, or Assessments for betterments to the Condominium Property must be excluded from the computation.

8.2 Mailing and Posting. A copy of the proposed annual budget shall be mailed or hand-delivered to the Members not less than 14 days prior to the meeting of the Directors at which the budget will be adopted together with a notice of the meeting. Electronic notice transmitted to the address furnished by the Unit Owner for such purpose is acceptable where permissible by law. The notice shall also be posted in a conspicuous location on the Condominium Property as provided by law. The Board may include notice of its meeting to set the insurance deductible with notice of the budget meeting.

8.3 Assessments. The annual shares of the Units of the Common Expenses shall be made payable in installments due monthly or quarterly (as determined by the Board) in advance and shall become due on the first day of each such period and shall become delinquent 10 days thereafter. No invoice need be sent by the Association, although the Association may do so. The Association shall have the right to accelerate Assessments of an Owner delinquent in the payment of Common Expenses. Accelerated Assessments shall be due and payable on the date a claim of lien is filed and may include the amounts due for the remainder of the fiscal year for which the claim of lien was filed.

8.4 Special Assessments. Special Assessments for Common Expenses which are not funded through the budget may be made by the Board of Directors, and the time of payment shall likewise be determined by them. Notice of the Board meeting at which such Assessments shall be considered shall be posted and mailed to each Member as provided in Section 3.7 hereof, except in the event of an emergency. The funds collected pursuant to a Special Assessment shall

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 16 of 21

be used only for the specific purpose or purposes set forth in such notice. However, upon completion of such specific purpose or purposes, any excess funds will be considered Common Surplus, and may, at the discretion of the Board, either be returned to the Members or applied as a credit towards future Assessments.

8.5 Assessment Roll. The Assessments for Common Expenses and Charges shall be set forth upon a roll of the Units which shall be available for inspection at all reasonable times by Members. Such roll shall indicate for each Unit the name and address of the Owner, and the Assessments and Charges paid and unpaid. A certificate made by a duly authorized representative of the Association or by the Board of Directors as to the status of a Unit's account may be relied upon for all purposes by any person for whom made.

8.6 Liability for Assessments and Charges. A Member shall be liable for all Assessments and Charges coming due while the Owner of a Unit, and such Member and Member's grantees or successors after a conveyance or other transfer of title shall be jointly and severally liable for all unpaid Assessments and Charges due and payable up to the time of such voluntary conveyance. Liability may not be avoided by waiver of the use or enjoyment of any Common Elements or Association Property or by abandonment of the Unit for which the Assessments or Charges are due. Where a mortgagee holding a first mortgage of record obtains title to a Unit by foreclosure, such mortgagee shall be liable for such Unit's unpaid Assessments, Charges, or share of the Common Expenses which became due prior to acquisition of such mortgagee's title as provided in the Act. Such mortgagee or its successors and assigns are liable for all Assessments and Charges accruing after their taking of title.

8.7 Liens for Assessments. The unpaid portion of an Assessment, including an accelerated Assessment which is due, together with all costs, collection expenses, interest, late fees, and reasonable attorney's fees for collection, including appeals, shall be secured by a continuing lien upon the Unit.

8.8 Lien for Charges. Unpaid Charges due to the Association together with costs, interest, late fees, expenses and reasonable attorney's fees shall be secured by a common law and contractual lien upon the Unit and all appurtenances thereto when a notice claiming the lien has been recorded by the Association.

8.9 Collection — Interest; Administrative Late Fee; Application of Payments. Assessments or Charges paid on or before ten days after the date due shall not bear interest, but all sums not paid on or before ten (10) days shall bear interest at the highest rate permitted by law from the date due until paid. In addition to such interest the Association may charge an administrative late fee in an amount not to exceed the greater of \$25 or 5% of each installment of the Assessment for which payment is received more than ten (10) days after the date due, or the maximum late fee permissible by law. The Association may also accelerate all Assessments or Charges which are accrued, but not yet due, in the manner provided by law. All payments upon

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 17 of 21

account shall be first applied to interest, then the late fee, then to any costs and collection expenses and reasonable attorney's fees incurred, and then to the Assessment payment first due.

Except as otherwise provided in the Act, no lien may be filed by the Association against a Condominium Unit until thirty (30) days after the date on which a notice of intent to file a lien has been delivered to the Owner pursuant to Section 718.121(4) of the Act.

8.10 Collection — Suit. The Association, at its option, may enforce collection of delinquent Assessments or Charges by suit at law, by foreclosure of the lien securing the Assessments or Charges, or by any other remedy available under the laws of the State of Florida, and in any event the Association shall be entitled to recover the payments which are delinquent at the time of collection, judgment, or decree, together with those which have become due by acceleration or which have thereafter become due, plus interest thereon, and all costs and expenses incident to the collection and the proceedings, including reasonable attorney's fees, incurred before trial, at trial, and on appeal. The Association may attach rental income for delinquent Units and may withhold approval for the sale, lease, or other transfer of a Unit, or any interest therein, until all past due Assessments, interest, late fees, costs, and attorney's fees have been paid in full. The Association must deliver or mail by certified mail to the Member written notices of its intention to file a lien and to foreclose the lien, as provided by law.

8.11 Association Depository. The Depository of the Association in which the funds of the Association shall be deposited, shall be financial institutions authorized to do business in Florida which carry FDIC insurance or equivalent private insurance such provided that such insurance is backed by the full faith and credit of the United States of America. Alternatively, the Association may deposit funds with brokerage houses or institutions which are members of the National Association of Securities Dealers, Inc. and insured by industry insurance backed by the full faith and credit of the United States of America. Principal of Association funds, whether reserves or operating funds, may not be placed at risk for investment purposes. Withdrawal of money from those accounts shall be only by checks or other withdrawal instruments signed by those persons as are authorized by the Directors.

8.12 Commingling of Funds. All funds of the Association shall be maintained separately in the Association's name. No community association manager or business entity required to be licensed or registered under Section 468.432, Florida Statutes (2011), as amended from time to time, no agent, employee, Officer, or Director of the Association shall commingle any Association funds with his funds or with the funds of any other condominium association or community association as defined in Section 468.431, Florida Statutes (2011), as amended from time to time, or with those of any other entity. Reserve funds and operating funds of the Association may be commingled for investment purposes, as provided by law.

8.13 Financial Reports. A complete financial report of actual receipts and expenditures of the Association shall be made annually which shall comply with Rule 61B-22,

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 18 of 21

Florida Administrative Code (2011), as amended from time to time, and with Section 718.111(13) of the Act.

8.14 Fidelity Bonding. The Association shall obtain and maintain adequate fidelity bonding in the minimum principal sum set forth in the Act, for each person (whether or not a Director) who controls or disburses Association funds, and the President, Secretary and Treasurer. The Association shall bear the cost of bonding of Directors and Officers. In the case of a community association manager or management firm, the cost of bonding may be allocated as the parties may agree. All persons providing management services to the Association, or otherwise having the authority to control or disburse Association funds, shall provide the Association with a certificate of insurance evidencing compliance with this paragraph, naming the Association as an insured under said policy.

9. PARLIAMENTARY RULES. Robert's Rules of Order (latest edition) shall be used as a general, non-binding guide in the conduct of Members' meetings, Board meetings, and Committee meetings to ensure fairness, impartiality, and respect for minority views without unduly burdening majority rights. Meetings shall also be conducted in accordance with these By-Laws and the procedures established by the Board from time to time, including the form of voting documents to be used. The ruling of the Chair of the meetings unless he or the Board of Directors designates a third person, as Parliamentarian, shall be binding on all matters of procedure, unless contrary to law.

10. BY-LAW AMENDMENTS. Amendments to the By-Laws shall be adopted in the following manner:

10.1 Proposal of Amendments. An amendment may be proposed by the President of the Association, a majority of the Directors, or by twenty-five percent (25%) of the entire Voting Interests.

10.2 Proposed Amendment Format. Proposals to amend existing By-Laws shall contain the full text of the article to be amended. New words shall be underlined and words to be deleted shall be ~~lined through~~ with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying, "SUBSTANTIAL REWORDING OF BY-LAWS. SEE BY-LAW NUMBER ___ FOR PRESENT TEXT."

10.3 Notice. Copies of proposed amendments shall be included in the notice of any meeting at which a proposed amendment is to be considered or in connection with documentation for action without a meeting.

10.4 Adoption of Amendments. A resolution for the adoption of a proposed amendment may be adopted by a vote of a majority of the Voting Interests of the Association present (in person or by proxy) and voting at a duly noticed meeting at which a quorum is

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 19 of 21

present, or by the written agreement of a majority of the entire Voting Interests. Amendments correcting errors, omissions or scrivener's errors may be executed by the Officers of the Association, upon Board approval, without need for Association membership vote.

10.5 Effective Date. An amendment when adopted shall become effective after being recorded in the Lee County Public Records according to law.

10.6 Automatic Amendment. These By-Laws shall be deemed amended, if necessary, so as to make the same consistent with the provisions of the Declaration of Condominium or the Articles of Incorporation. Whenever the Act, Chapter 617, Florida Statutes, or other applicable statutes or administrative regulations, as amended from time to time, are amended to impose procedural requirements less stringent than set forth in these By-Laws, the Board may operate the Association pursuant to the less stringent requirements. The Board of Directors without a vote of the Owners, may adopt by majority vote, amendments to these By-Laws as the Board deems necessary to comply with such operational changes as may be enacted by future amendments to Chapters 607, 617, and the Act, or such other statutes or administrative regulations as required for the operation of the Association, all as amended from time to time.

10.7 Proviso. Provided, however, that no amendment shall change the configuration of any Unit or the share in the Common Elements appurtenant to it, or increase the Owner's proportionate share of the Common Expenses, unless the record Owner of the Unit concerned and all record Owners of the mortgages on such apartment shall join in the execution of the amendment, and all other Members approve the amendment.

11. DISPUTE RESOLUTION.

11.1 Mandatory Arbitration. If unresolved, disputes between the Board and Members as defined in Section 718.1255(1) of the Act, must be arbitrated in mandatory non-binding arbitration proceedings as provided in the Condominium Act prior to commencing litigation, so long as the Condominium Act requires such arbitration.

11.2 Member Inquiries. When a Member files a written inquiry by certified mail with the Board, the Board shall respond in writing to the Member within 30 days of receipt of said inquiry. The Board's response shall either give a substantive response to the inquirer, or notify the inquirer that legal advice has been requested, or notify the inquirer that advice has been requested from the Association's counsel or the Division. If the Board requests advice from the Division, the Board shall, within ten days of its receipt of the advice, provide in writing a substantive response to the inquirer. If a legal opinion is requested, the Board shall, within 60 days after the receipt of the inquiry, provide in writing a substantive response to the inquirer. The failure to provide a substantive response to the inquirer as provided herein precludes the Association from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the inquiry. Absent a different rule adopted by the Board of Directors, the Board shall only be obligated to respond to one inquiry per month pertinent to

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 20 of 21

any particular Unit. In the event of a grievance of a Member against the Association, the Board of Directors, or a Member thereof, written notice in detail of the grievance shall be given the Directors prior to the institution of litigation, (including but not limited to arbitration) and they shall be allowed a period of 30 days in which to resolve the grievance.

11.3 Other Remedies. Nothing herein shall preclude the Association from pursuing any remedy for the violation of the Condominium Documents or disputes with a Member or other party as may be available to the Association under the laws of the State of Florida or the Condominium Documents.

12. MISCELLANEOUS. The following miscellaneous provisions shall apply to these By-Laws and the Condominium Documents.

12.1 Conflicts. The term "Condominium Documents," as used in these By-Laws and elsewhere shall include the Declaration of Condominium, Articles of Incorporation, these By-Laws, the Rules and Regulations of the Association, the Plats, Surveys, Plot Plans, and graphic descriptions of improvements of record, and all other exhibits to the original Declaration of Condominium. In the event of a conflict between the language in the Declaration of Condominium and the graphic descriptions of record, the graphic description of record shall control. In the event of a conflict between language in any of the other Condominium Documents, the following priorities shall control:

1. Declaration of Condominium;
2. Articles of Incorporation;
3. By-Laws; and,
4. Rules and Regulations.

12.2 Gender. The use of the term "he," "she," "his," "hers," "their," "theirs" and all other similar pronouns should be construed to include all genders and encompass the plural as well as the singular.

12.3 Severability. In the event that any provisions of these By-Laws is deemed invalid, the remaining provisions shall be deemed in full force and effect.

ACTIVE: 3545015_6

Exhibit "C" to Second Amended and Restated Declaration of Condominium
(Second Amended and Restated By-Laws)

Page 21 of 21

LAW OFFICES
BECKER & POLIAKOFF, P.A.
12140 CARISSA COMMERCE COURT • SUITE 200 • FORT MYERS, FL 33966
TELEPHONE (239) 433-7707