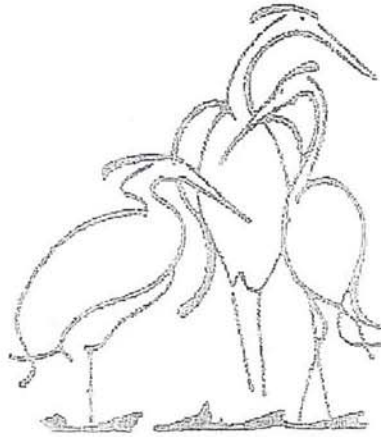


# Castel Del Mare

Declaration of Condominium

Articles of Incorporation

Association Bylaws



Castel Del Mare Condominium Association, Inc.

1620 Stickney Point Road

Sarasota, FL 34231

(941) 927-1478; fax (941) 923-1713

email: [cdm1478@gmail.com](mailto:cdm1478@gmail.com)

Revised 2003

& July 2009

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INSTRUMENT # 2009084115 3 PGS  
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SARASOTA COUNTY, FLORIDA  
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## AMENDMENTS

### DECLARATION OF CONDOMINIUM CASTEL DEL MARE, A CONDOMINIUM

*[Additions are indicated by underline; deletions by ~~strike-through~~]*

**12.12 RENTALS.** In order to maintain the existing high quality of this residential condominium and to prevent it from becoming a lodging or transient facility, no Unit shall be leased, rented or occupied by other than the unit owner (exclusive of immediate family which is defined as the owner's or the owner's spouse's parents, grandparents, children, or grandchildren, or siblings) more than three (3) times in any calendar year. Entire units may be rented for a period of not less than thirty (30) days (28 days in February) and no individual rooms therein may be rented. A lease covering the latter part of one calendar year and carrying over into the next calendar year shall be treated as a one-time lease only in the year it commences. During the period a Unit is leased, the unit owner shall not have the right to use the common elements and facilities except as a guest of the tenant. All tenants and Unit occupants shall be subject to and must comply with the provisions of the Declaration, Articles of Incorporation, Association Bylaws and Association Rules, and any failure or refusal to comply therewith shall be deemed a default and breach of the lease.

**12.12a GRATUITOUS OCCUPANCY.** Gratuitous Occupancy is defined as permission from a Unit owner to use their Condominium Unit without payment or consideration of any type (monetary, trade, exchange, bonus, etc.). Units may be occupied by immediate family members of the unit owner (immediate family is defined as the owner's or the owner's spouse's parents, grandparents, children, grandchildren or siblings). Gratuitous Occupants (other than the owner's immediate family members) will be limited to not more than three (3) times in any calendar year. The Unit owner is required to file a notice (on a form prepared by the Association) with the Association prior to whenever the Unit is to be occupied by persons other than the owner. All occupants are required to register with the Association office promptly upon arrival at the Condominium. All guests and gratuitous occupants of the owner shall comply with all of the restrictions in Article 12 and with all rules of the Association. The owner of a Unit being occupied by a family member, guest, or gratuitous occupant is strictly liable for any damage to the common elements committed. It is the responsibility of the Unit owner to ensure that the Unit's occupant complies with all restrictions and rules. The Association may levy fines for enforcement of rules and restrictions as stated in Article 14.

**8.5 OBLIGATIONS OF UNIT OWNERS.** All unit owners assign to the Association the owner's right to collect the Unit's rent in the event the owner is or later becomes delinquent in the payment of his assessments to the Association until said Unit owner's account is paid in full. Upon written notice from the Association to the lessee, the lessee of any such Unit shall pay rent directly to the Association.

3

✓ Castel Del Mare Condo  
1620 Stickney Point Rd  
Sarasota, FL 34231

Prepared By and Return to:  
Kevin T. Wells, Esq.  
Law Offices of Kevin T. Wells, P.A.  
22 S. Links Ave., Suite 301  
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Telephone: (941) 366-9191  
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**CERTIFICATE OF AMENDMENT**



**DECLARATION OF CONDOMINIUM  
CASTEL DEL MARE, A CONDOMINIUM**

**CASTEL DEL MARE CONDOMINIUM  
ASSOCIATION, INC.**

We hereby certify that the attached amendments to the Declaration of Condominium of Castel Del Mare, a Condominium (which Declaration is originally recorded at Official Records Book 1088, Page 1305 et seq. of the Public Records of Sarasota County, Florida) of **CASTEL DEL MARE CONDOMINIUM ASSOCIATION, INC.** (herein, "the Association") were approved and adopted at a Special Meeting of the Association Membership held on May 12, 2009 by the affirmative vote of not less than two-thirds (2/3rds) of the membership of the Association present (in person and by proxy) and voting at the membership meeting, as required by Article 13.2 of the Declaration of Condominium. The Declaration amendments were adopted in accordance with the requirements of the condominium documents and Florida law.

DATED this 25 day of June, 2009.

Signed, sealed and delivered:  
in the presence of:

**CASTEL DEL MARE CONDOMINIUM  
ASSOCIATION, INC.**

sign DEBORAH E Macdonald  
print DEBORAH E Macdonald

By: Paul McCoy  
Paul McCoy, President

sign Gail Packer  
print GAIL PACKER

Signed, sealed and delivered:  
in the presence of:

sign William Ahin  
print William Ahin

Attest: Walter Marnak  
Walter Marnak, Secretary

sign Janell Surrens  
print Janell Surrens

(Corporate Seal)

Prepared By and Return to:  
Kevin T. Wells, Esq.  
Lobeck Hanson & Wells, P.A.  
2033 Main Street, Suite 403  
Sarasota, Florida 34237  
Telephone: (941) 955-5622  
Facsimile: (941) 951-1469

CERTIFICATE OF AMENDMENT

DECLARATION OF CONDOMINIUM  
CASTEL DEL MARE, A CONDOMINIUM

ARTICLES OF INCORPORATION  
ASSOCIATION BYLAWS  
CASTEL DEL MARE CONDOMINIUM  
ASSOCIATION, INC.

We hereby certify that the attached Amended and Restated Declaration of Condominium of Castel Del Mare, a Condominium (which Declaration is originally recorded at Official Records Book 1088, Page 1305 et seq. of the Public Records of Sarasota County, Florida), Amended and Restated Association Bylaws and Articles of Incorporation (which Association Bylaws and Articles of Incorporation are recorded as Exhibits to the originally recorded Declaration of Condominium) of CASTEL DEL MARE CONDOMINIUM ASSOCIATION, INC. (herein, "the Association") were approved and adopted at a Special Meeting of the Association Membership held on 4/22/03 and 5/6/03 by the affirmative vote of not less than two-thirds (2/3rds) of all Association members, as required by Article 5.03 of the Declaration of Condominium, Article XI of the Articles of Incorporation of the Association and Articles 7.1(4) and 14.1 of the Association Bylaws.

DATED this 13<sup>th</sup> day of May, 2003.

Signed, sealed and delivered:  
in the presence of:

CASTEL DEL MARE CONDOMINIUM  
ASSOCIATION, INC.

sign Mary E. Canegali  
print MARY E. CANEGALI

sign Winiarc Potestio  
print WINIARC POTESTIO

By: Paul F. McCoy  
\_\_\_\_\_, President

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 25 day of June, 2009, by Paul McCoy as President of Castel Del Mare Condominium Association, Inc., a Florida corporation, on behalf of the corporation. He is personally known to me or has produced Florida Drivers license as identification.

NOTARY PUBLIC

sign Gretchen E. Girard  
print Gretchen E. Girard  
State of Florida at Large (Seal)  
My Commission Expires: 1/11/2013

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of June, 2009, by Walter Mamak as Secretary of Castel Del Mare Condominium Association, Inc., a Florida corporation, on behalf of the corporation. He is personally known to me or has produced personally as identification.

NOTARY PUBLIC

sign Linda S. Woodland  
print LINDA S. WOODLAND  
State of Florida at Large (Seal)  
My Commission Expires:



**Linda S. Woodland**  
Commission # DD556878  
Expires June 1, 2010  
Bonded Troy Fah - Insurance, Inc 800-345-7019

**CASTEL DEL MARE CONDOMINIUM**

**DECLARATION OF CONDOMINIUM**

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**AMENDED AND RESTATED**

**DECLARATION OF CONDOMINIUM  
CASTEL DEL MARE CONDOMINIUM**

*[Substantial rewording of Declaration of Condominium. See original Declaration of Condominium and prior amendments for present text.]*

**ARTICLE 1.  
DEDICATION.**

That certain property situate in the County of Sarasota, State of Florida, which property is more particularly described in Exhibit "A" attached hereto, is by this Declaration of Condominium submitted to condominium ownership pursuant to Chapter 718, Florida Statutes, as amended from time to time (herein, "the Condominium Act"). The Condominium shall be known and identified as CASTEL DEL MARE CONDOMINIUM (herein, "the Condominium"). The original Declaration of Condominium of the Condominium was recorded at Official Records Book 1088, Page 1305 et seq. of the Public Records of Sarasota County, Florida.

**ARTICLE 2.  
DEFINITIONS.**

For all purposes, the terms used in this Declaration of Condominium, the Articles of Incorporation and Association Bylaws shall have the meanings stated in the Condominium Act (section 718.103, Florida Statutes) and as set forth below, unless the context otherwise requires. Also, throughout the Declaration of Condominium, Articles of Incorporation and Association Bylaws, whenever the context so permits, the use of the plural shall include the singular, the singular the plural, and the use of either gender shall be deemed to include both genders.

**2.1** ARTICLES OF INCORPORATION or ARTICLES means the Articles of Incorporation of the Association and are attached hereto as Exhibit "C".

**2.2** ASSOCIATION means CASTEL DEL MARE CONDOMINIUM ASSOCIATION, INC.

**2.3** BYLAWS means the Bylaws of the Association and are attached hereto as Exhibit "D".

**2.4** COMMON EXPENSES means all expenses and assessments properly incurred by the Association for the Condominium, and shall include:

**2.4.1** Expenses of maintenance, operation, repair or replacement of the Association property, common elements and of the portions of the units to be maintained, repaired or replaced

by the Association.

**2.4.2** The expenses declared common expenses by provisions of this Declaration, the Articles of Incorporation or the Association Bylaws.

**2.4.3** Charges for utility services, except such service as is metered separately to a Unit by a utility company or by the Association.

**2.4.4** Insurance premiums on Association policies required by the provisions of this Declaration, by law or as determined appropriate from time to time by the Association Board of Directors.

**2.4.5** Administrative costs of operating the Association, the Condominium and all other expenses of carrying out the powers and duties of the Association.

**2.4.6** Basic cable television service to the Units.

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

**2.6** DECLARATION OF CONDOMINIUM or DECLARATION means the Declaration of Condominium of the Condominium.

**2.7** LIMITED COMMON ELEMENTS means those common elements which are reserved for the use of certain condominium Unit or units to the exclusion of other units.

**2.8** RULES means the rules governing the use and occupancy of the condominium property and the condominium units adopted and amended by the Association Board of Directors as provided herein, in the Articles of Incorporation and the Association Bylaws.

**2.9** UTILITY SERVICES means electric power, gas, water, and sewer, garbage collection and basic cable television.

### **ARTICLE 3. CONDOMINIUM PLAT.**

A survey of the land, showing the improvements located thereon, and a graphic description of the improvements and a plot plan thereof, the units, common elements and limited common elements, and the approximate dimensions thereof, and identifying the different floor plans, is attached hereto, incorporated herein and marked Composite Exhibit "B" (herein, "the Plat"). The condominium units shall be known and numbered as described in the floor plans on Composite Exhibit "B" so that no Unit bears the same designation as any other Unit. The condominium includes three (3) four-story buildings and five (5) two-story buildings, for a total of one hundred

eighty-five (185) units. The condominium property also includes a clubhouse, swimming pool and other recreational facilities, as shown on Composite Exhibit "B". Unit 1608-405 never existed as it was divided between the two adjacent units, 404 and 406. Unit 1624-404 never existed as it was divided between the two adjacent units, 403 and 405 (which was later numbered 404).

#### **ARTICLE 4. EASEMENTS.**

**4.1 UTILITY SERVICES.** Easements are reserved through the condominium property as may be required for utility services in order to serve the Condominium and the units adequately. Such easements through a Unit shall be only according to the plans and specifications for the particular Unit, unless approved in writing by the unit owner. Easements as may be necessary through units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services to more than one Unit or to the common elements are hereby declared to be common elements.

**4.2 ACCESS.** Each unit owner, while a unit owner in the Condominium, shall have a perpetual easement of ingress and egress to and from the Unit over the common elements.

**4.3 ENCROACHMENTS.** All condominium property shall be subject to perpetual easements for encroachments which exist or which may hereafter be caused by settlement or natural movement of the structures or minor inaccuracies in construction, which encroachments shall be permitted to remain undisturbed and such easements shall continue until such encroachments no longer exist.

#### **ARTICLE 5. UNITS AND APPURTENANCES.**

**5.1 UNIT BOUNDARIES.** Each Unit shall include that part of the condominium property lying within the vertical and horizontal boundaries of the Unit as established by the condominium plat as set forth in Compositd Exhibit "B", which boundaries shall be determined in the following manner:

**5.1.1 Upper and Lower Boundary.** The upper boundary and lower boundary of each Unit shall be the following, extended to the perimeter boundaries:

**5.1.1.1 Upper Boundary.** Up to and including the horizontal plane of the back-surface of the drywall which serves as the Unit's ceiling.

**5.1.1.2 Lower Boundary.** Down to and including the horizontal plane of the back-surface of the structural slab which serves as such Unit's floor if such Unit is on the ground floor. Down to and including the horizontal plane of the back-surface of the concrete topping which serves as such Unit's floor if such Unit is on an upper level.

**5.1.2 Perimeter Boundary.** The perimeter boundary of each Unit shall be up to and including the vertical plane of the back-surface of the drywall serving as a perimeter wall which plane shall be extended to each level's upper and lower boundary. Where a balcony or patio is attached to the Unit being bounded, the owner of such Unit shall own the interior decorative surface of the floor and side of such balcony or patio. Where a balcony or patio serves two units (e.g., Unit 1644-201 and Unit 1644-202) the Unit shall include the interior decorative surface of the floor and side of said balcony or patio, except that the area described by extending the common stairway serving said common balcony or patio to the storage closets located on said balcony or patio shall be common elements. The storage closets located on the edges of balconies or patios shall be part of the Unit to which the balcony or patio belongs. The Units shall not include entrance stairways, entrance walls, entrance balconies or common storage facilities in front of or at the end of buildings.

**5.2 COMMON ELEMENTS.** The common elements include but are not limited to the following:

**5.2.1** The real property described in Exhibit "A", attached hereto and made a part hereof, and all improvements thereon, except for Units as shown on the Condominium Plat.

**5.2.2** All structures, beams, posts and members within a Unit.

**5.2.3** Easements through units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services to the various units and the common elements.

**5.2.4** An easement of support in every portion of a Unit which contributes to the support of a condominium building or another Unit.

**5.2.5** The property and installations for the furnishing of utilities or other services to more than one Unit or to the common elements or to a unit other than the Unit containing the installation.

**5.2.6** Roofs, yards, streets, parking areas, recreational areas and gardens, except as otherwise provided herein.

**5.2.7** All electrical apparatus and wiring, TV cables, plumbing pipes and apparatus, telephone lines, communication system, and all other ducts, conduits, cables, wire or pipe, within the common elements and up to the unfinished surface of the Unit wall.

**5.2.8** All other elements of the condominium property designed for common use or necessary to its existence, upkeep and safety.

**5.3 RIGHT TO LIMIT USE OF COMMON ELEMENTS.** The Association may reserve for the exclusive use of a certain number of condominium units areas such as parking spaces, special corridors, stairways, sanitary services common to the condominium units of a particular building, and the like. All areas which are reserved for exclusive use shall be common elements and

shall be treated as such for all purposes, except exclusivity of use.

**5.4 ENCROACHMENTS.** If any portion of a Unit or the common elements encroaches upon another Unit, a valid easement for the encroachment and maintenance of such encroachment shall and does exist for so long as the encroaching improvement stands. In the event a condominium building or buildings are partially or totally destroyed and then rebuilt, the unit owners agree that minor encroachments on parts of the common elements or limited common elements or units, as aforescribed, due to construction, shall be permitted and that a valid easement for said encroachments and the maintenance thereof shall exist.

## **ARTICLE 6. ASSOCIATION.**

**6.1 AUTHORITY.** The operation of the Condominium shall be by CASTEL DEL MARE CONDOMINIUM ASSOCIATION, INC., a corporation not for profit, under the Laws of Florida. A copy of the Articles of Incorporation of the Association are attached hereto as Exhibit "C." A copy of the Association Bylaws are attached hereto as Exhibit "D."

**6.2 POWERS AND DUTIES.** The powers and duties of the Association shall include those set forth in the Articles of Incorporation and Association Bylaws, which are referred to herein and attached hereto, this Declaration, the Condominium Act, and Chapter 617, Florida States (herein, the "Not-for-Profit Corporation Act"), all as amended from time to time.

**6.3 MEMBERSHIP.** Each unit owner shall automatically be a member of the Association, and said membership shall terminate when he or she no longer owns a Unit or any interest therein, as more particularly set forth in the Articles of Incorporation and Association Bylaws. The share of members in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to the Unit.

**6.4 RESIDENT MANAGER'S UNIT.** The Association may, but is not required to, own a condominium Unit for the use of the Resident Manager(s) or such other use as it deems appropriate. The mortgage payments, insurance premiums, property taxes, and all other expenses relating to said Parcel (including its share of common expenses) will be treated as common expenses so long as the Unit is owned by the Association.

## **ARTICLE 7. OWNERSHIP OF COMMON ELEMENTS.**

**7.1 OWNERSHIP.** Each of the Unit Owners shall own an undivided interest in the common elements; and the undivided interest, stated as percentages or fractions of such ownership in said common elements shall be determined in accordance with Exhibit "E", which is attached to this Declaration and incorporated herein.

**7.2 APPURTENANCE TO THE UNIT.** The undivided share of a member in the common elements, funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to the member's condominium unit.

**7.3 VOTING RIGHTS.** Each condominium Unit shall be entitled to one (1) vote at meetings of the Association membership, to be cast in the manner provided in the Bylaws and the Condominium Act.

## **ARTICLE 8. ASSESSMENTS.**

The making and collection of assessments against unit owners for the common expenses shall be pursuant to the Association Bylaws, Articles of Incorporation and Declaration of Condominium, and is subject to the following provisions:

**8.1 INTEREST AND LATE FEE, APPLICATION OF PAYMENTS.** Assessments and installments on such assessments paid on or before ten (10) days after the date when due shall not bear interest. All assessments and installments on such assessments not paid on or before ten (10) days after the date when due shall bear interest at the rate of eighteen percent (18%) per annum from the date when due until paid and shall incur an administrative late fee equal to the greater of twenty-five dollars (\$25.00) or five percent (5%) of the delinquent payment. All payments upon account shall be first credited to any interest and administrative late fees, then to any collection costs and attorney's fees and then to the assessment payments first due. All interest and late charges collected shall be credited to the general expense account. Interest shall accrue on judgments obtained by the Association at the rate of eighteen percent (18%) per year.

**8.2 ACCELERATION.** If a unit owner is delinquent in the payment of an installment of the annual assessment, the Board of Directors may accelerate the remaining installments of the annual assessment upon reasonable notice to the unit owner, and then the accelerated assessment shall be due and payable on the date the claim of lien is filed, as more fully provided in the Association Bylaws.

**8.3 LIEN FOR ASSESSMENTS.** The Association shall have a lien on each condominium Unit for any unpaid assessment and interest thereon against the owner of such condominium parcel until paid. Such lien shall also secure subsequent assessments, interest and late charges, as well as reasonable attorney's fees and costs incurred by the Association incident to the collection of such assessment or enforcement of such lien. Such lien shall be executed and recorded in the Public Records of Sarasota County, Florida, and perfected as provided by section 718.116, Florida Statutes. The foreclosure proceeding shall be brought in the name of the Association.

**8.4 RENTAL PENDING FORECLOSURE.** In any foreclosure of a lien for assessments, the unit owner subject to the lien shall be required to pay reasonable rental for the Unit and the Association shall be entitled to the appointment of a receiver to collect the same.

*8.5 - See Amendment at beginning of documents.*



**ARTICLE 9.**  
**MAINTENANCE, ALTERATIONS AND IMPROVEMENTS.**

**9.1 BY THE ASSOCIATION.** The responsibility and authority of the Association shall be as follows:

**9.1.1** The Association shall maintain, repair and replace the common elements and Association real and personal property. However, if any repairs or replacements are necessitated due to the abuse or negligent use thereof by a unit owner, his guest, family member or tenant, the cost of such repair or replacement may be assessed against the Unit and the unit owner.

**9.1.2** The Association shall maintain, repair and replace all conduits, ducts, plumbing, wiring and other facilities within a Unit for the furnishing of utility services to part or parts of the condominium property other than the Unit within which contained, as well as all such components exterior to the electricity or water meter serving the Unit and all sewer lines outside the Unit.

**9.1.3** Notwithstanding the duty of the Association to maintain, replace and repair parts of the condominium property, the Association shall not be liable to unit owners for injury or damage to the condominium Unit (other than the cost of maintenance, repair and replacement caused by a latent condition of the property to be maintained, repaired and replaced by the Association).

**9.1.4** The Association Board of Directors may materially alter, substantially improve and add to the common elements and Association property without owner approval, provided that any expense for such purpose which exceeds ten thousand dollars (\$10,000.00) shall not be made without the prior approval of not less than a majority of the members present (in person and by proxy) and voting at an Association meeting called in whole or in part for that purpose. Alternatively, the Association may obtain the written approval of not less than a majority of all owners of the alteration, improvement or addition. This Article 9.1.4 shall not apply to the Association purchasing a condominium Unit at a foreclosure sale or otherwise. This limitation shall not apply to expenditures for the purpose of maintenance, repair, replacement, preventive maintenance, improving security or compliance with a governmental order or requirement.

**9.1.5** The Association shall determine the exterior color scheme and appearance of the buildings. Each unit owner also agrees to maintain the portions of the owner's Unit that are visible outside in conformity with the color scheme and appearance of the buildings as determined by the Association.

**9.2 BY THE UNIT OWNER.** The responsibility of the unit owner shall be as follows:

**9.2.1** To maintain, repair and replace all portions of the owner's Unit, except the portions to be maintained, repaired and replaced by the Association. Such maintenance, repair and replacement shall be done without disturbing the rights of other unit owners or the Association. The portions of the Unit, fixtures and equipment located therein or thereon which serve only his Unit



including, but are not limited to, the following:

**9.2.1.1** Air conditioning and heating units, any and all appurtenances and components thereto wherever situated including, but not limited to, any exterior parts thereof; refrigerator, stove, fans, dishwasher, and all other appliances; drains, plumbing fixtures, pipes, meters and connections, sinks, plumbing within the Unit; electric panels, wiring, outlets, and electric fixtures; interior doors, windows, screening and glass; all exterior doors, except the painting of the exterior faces of exterior doors which shall be the responsibility of the Association.

**9.2.1.2** To pay for all of the owner's utilities, including electricity, water, gas, sewage and telephone used within the owner's Unit and all taxes levied against the owner's condominium parcel, unless such utilities costs are part of the common expenses which the Association shall pay for out of assessments.

**9.2.1.3** Not to make, or cause to be made, any repairs to any plumbing or electrical wiring unit within a Unit except by licensed plumbers or electricians authorized to do such work by the Association or its agent. Plumbing, air conditioning and electrical repairs within a Unit or with respect to items serving only one Unit, shall be paid for by the Owner(s) of the Unit.

**9.2.1.4** Not to make, or cause to be made, any addition, alteration or improvement to the owner's Unit, common elements or limited common elements specifically including, but not limited to, screening or enclosing private balconies and patios or affixing outside shutters to windows, removing any additions, improvements, or fixtures from the condominium building, or doing any act that would impair the structural soundness of the Unit or the building without the prior written approval of the Association Board of Directors.

**9.2.1.5** Not to change the exterior or exterior appearance of a condominium building or the exterior or exterior appearance of the Unit or any portion of the Unit, except upon prior written approval of the Association Board of Directors.

**9.2.1.6** To promptly report to the Association any defect or need for repairs for which the Association is responsible.

**9.2.1.7** Not to make any alterations or additions which would jeopardize the safety or soundness of the Unit or impair any easement without the prior written approval of the Association Board of Directors.

**9.2.1.8** To maintain, repair and replace any additions, alterations or improvements which the unit owner may make to the owner's Unit, the common elements or limited common elements appurtenant thereto, provided, however that nothing herein shall be construed to allow a unit owner to alter, add or improve without obtaining prior written approval of the Association Board of Directors.

**9.3 ENFORCEMENT OF UNIT OWNER MAINTENANCE RESPONSIBILITIES.**

In the event the owner of a Unit fails to maintain, repair or replace any portion of the Unit as required above, the Association or any other unit owner shall have the right to proceed in a court of equity to seek compliance with the foregoing provisions, and shall be entitled to recover court costs and reasonable trial and appellate attorneys' fees. Alternatively, the Association shall have the right to, after providing the owner a reasonable opportunity to comply, assess the unit owner and the Unit for the necessary sums to make necessary improvements or corrections. After such assessment, the Association shall have the right for its agents or employees to enter a Unit and to do the necessary work. The Association shall have the same remedies to collect such an assessment, including but not limited to lien rights, as it has for an assessment for common expenses.

**9.4 UNIT ACCESS.** The Association, its agents or employees, shall have the irrevocable right to have access to each Unit from time to time at reasonable hours as may be necessary for the maintenance, repair or replacement of any common elements or portions of the Unit for which the Association is responsible, or as necessary to prevent damage to the common elements or to a Unit or units, and for the purpose of carrying out the provisions referred to in subparagraphs 6.1.1 through 6.1.3 hereof. In order to facilitate the Association's right of access, each unit owner shall promptly provide and maintain keys to the locks to the entrance door to the owner's condominium unit and the security code to disarm the Unit's security system, if any.

**ARTICLE 10.  
INSURANCE PROVISIONS.**

**10.1 LIABILITY INSURANCE.** The Association shall maintain comprehensive public liability and property damage insurance covering all of the common elements, Association real property and insuring the Association and the unit owners as named insureds in such amounts as the Association determines necessary, provided that the minimum amount of coverage shall be \$500,000 for bodily injury or death of any one person, \$1,000,000 for bodily injury to or death of any number of persons arising out of any one occurrence, and \$100,000 for any instance of property damage. Premiums for such insurance shall be paid for by the Association as a common expense.

**10.2 PROPERTY INSURANCE.**

**10.2.1 Purchase of Insurance.** The Association shall obtain and maintain fire, windstorm and extended coverage insurance (including vandalism and malicious mischief insurance) covering all of the insurable condominium property, including personal property owned by the Association, as their interests may appear, with a company selected by the Association having a policyholder's rating of not less than an "A" in the most recent edition of Best's Insurance Guide, in an amount equal to eighty percent (80%) of the full replacement cost of the condominium property as determined annually by the Association or its insurance agent. The company or companies with whom such insurance coverage is placed, as provided in this Declaration, must be authorized to do business in the State of Florida.

**10.2.2 Loss Payable Provisions - Insurance Trustee.** All policies purchased by the Association insuring condominium property shall be for the benefit of all unit owners and their mortgagees, and the Association, as their interests may appear. However, the Association shall be the named insured and it shall not be necessary to name the unit owners or any mortgagees, although mortgagee endorsements may be issued. The policies shall be held by the Association and shall provide that all insurance proceeds payable on account of loss or damage shall be payable to the Association. The Association shall hold the insurance policies and receive the proceeds paid pursuant to the policies in trust for the purposes stated herein, for the benefit of the Association and the unit owners and their respective mortgagees, in the following shares:

**10.2.2.1** Proceeds Paid on Account of Damage to Common Elements. An undivided share for each unit owner, such share being the same as the undivided share in the common elements appurtenant to the owner's Unit.

**10.2.2.2** Proceeds Paid on Account of Damages to Any Units. Proceeds on account of damage to units shall be held for the owners of damaged units in the proportion that the cost of repairing the insured damage suffered by each unit owner bears to the total cost of restoring all insured damage to the units, which cost shall be determined by the Association.

**10.2.2.3** Mortgagees. In the event a mortgage endorsement has been issued with respect to a Unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner, as their interest 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 except distributions thereof made to the unit owner and mortgagee, pursuant to the provisions of this Declaration.

**10.2.3 Distribution of Proceeds.** Proceeds of insurance policies received by the Association shall be first utilized to pay the cost of reconstructing or repairing any damage. Any proceeds remaining after paying such cost shall be distributed to the beneficial owners, provided that, if a mortgagee endorsement has been issued with respect to a Unit, the shares of the unit owner will be paid to the unit owner and mortgagee jointly.

**10.2.4 Association as Agent.** The Association is hereby irrevocably appointed agent for each unit owner and for each owner of a mortgage or other lien encumbering a Unit and for each owner of any other interest in the condominium property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

**10.2.5 Benefit of Mortgagees.** Certain provisions in this Article 10 are for the benefit of mortgagees of condominium parcels, and may be enforced by such mortgagee.

### **10.3 RECONSTRUCTION OR REPAIR AFTER CASUALTY.**

**10.3.1 Reconstruction or Repair Required.** In the event the common elements or the units are damaged by any casualty, whether such damage is insured against or not, the same shall be repaired or reconstructed by the Association or the unit owner, as the case may be.

**10.3.2 Plans and Specifications.** Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building, portions of which are attached hereto as exhibits; or if not, then according to plans and specifications approved by the Board of Directors of the Association, and by not less than seventy-five percent (75%) of the unit owners, including the owners of all damaged units, which approval shall not be unreasonably withheld.

**10.3.3 Responsibility.** If the damage is only to those parts of one Unit for which the responsibility of maintenance and repair is that of the unit owner, then the owner of the damaged Unit shall be responsible for the reconstruction and repair of any damaged caused by casualty. In all other instances the responsibility of reconstruction and repair of damage caused by casualty shall be that of the Association.

**10.3.4 Estimate of Costs.** Immediately after a determination to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

**10.3.5 Assessments.** If the proceeds of insurance are not sufficient to pay the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against the unit owners who own the damaged units, and against all unit owners in the case of damage to common elements, in sufficient amounts to provide funds for the payment of such costs. The assessment against a unit owner for damage of units shall be in the same proportion as the cost of reconstruction and repair of the owner's Unit bears to the cost of reconstruction and repair of all damaged units. Such assessment on account of damage to common elements shall be in proportion to the unit owner's share in the common elements. Any assessment made pursuant to this Article may be enforced in the manner provided in Article 8 of this Declaration.

**10.4 CONSTRUCTION FUNDS.** The funds for payment of costs of reconstruction and repair of damage caused by casualty, which shall consist of proceeds of insurance held by the Association and funds collected by the Association from assessments against unit owners, shall be disbursed in payment of such costs in the following manner:

**10.4.1 Association.** The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with the Association, then the construction fund shall be disbursed in payment of such costs in the manner required by the Association Board of Directors and upon approval of an Architect licensed to practice in Florida and employed by the

Association to supervise the work.

**10.4.2 Unit Owner.** The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with a unit owner shall be paid by the Association to the unit owner, or if there is a mortgagee endorsement as to such Unit, then to the unit owner and the mortgagee jointly, promptly upon completion of all required repairs and reconstruction.

**10.4.3 Surplus.** The first moneys disbursed in payment of costs of reconstruction and repair shall be deemed to be the proceeds of insurance. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere stated, except, that the part of a distribution to a beneficial owner which is in excess of assessments paid by such owner into the construction fund shall be payable to any mortgagee.

**10.4.4 Certificate.** The Association may require as a condition precedent to any disbursement a certificate of the Architect named by the Association certifying that the work has progressed to the point indicated in the contractor's application for payment, that to the best of the Architect's knowledge, information and belief, the quality of work is in accordance with the contract documents, and that the contractor is entitled to payment.

**10.4.5 Institutional Mortgagee's Right to Advance Premium.** Should the Association fail to pay any insurance premium when due or should the Association fail to comply with other insurance requirements of the condominium documents, any institutional mortgagee shall have the right, at its option, after thirty (30) days' written notice to the Association transmitted by certified mail, return receipt requested, to obtain copies of the insurance policies required hereby and to advance such sums as are required to maintain or procure such insurance and, to the extent of the money so advanced, said mortgagee shall be subrogated to the assessment and lien rights of the Association against the unit owner.

**10.4.6 Restoration Not Required.** In the event more than ninety percent (90%) in value of the condominium property (exclusive of land value) is substantially damaged or destroyed by fire or other casualty and the extent of such damage is certified in writing by the Association to each unit owner, then two-thirds (2/3) of the voting members may signify their desire to terminate the condominium by filing within ninety (90) days after the casualty in the Public Records a Notice of Election to Terminate Condominium accompanied by the certification of extent of damage by the Association, and the Condominium shall thereupon terminate. Thereafter, the unit owners will become tenants in common of the condominium property and the insurance proceeds, the share of each unit owner being the same as the respective share in the common elements appurtenant to the owner's Unit. Any mortgage or other lien which encumbers a condominium parcel shall continue as a lien of equal dignity against the undivided interest of the unit owner in the condominium property and proceeds of insurance. If, after filing the Notice of Election to Terminate Condominium as provided for in this paragraph, any unit owner requests a partition of the property, all of the condominium property shall be sold by the Association and each unit owner, or each unit



owner and his respective mortgagee, will be entitled to recover from the fund composed of insurance proceeds and sale proceeds, a share of such sums that shall be the same as the undivided share of such unit owner in the common elements. In the event the fund does not contain sufficient sums to fully compensate every unit owner, the sum payable to each unit owner will be proportionately reduced. In the event the remaining condominium property is not sold, each unit owner will be compensated for the owner's loss by receiving:

**10.4.6.1** The net proceeds of any insurance paid to the Association on account of the casualty to the owner's individual condominium parcel, the amount of which payment will be determined by the insurance carrier; and

**10.4.6.2** An undivided interest in the land and undestroyed common elements. Each unit owner's interest shall be the same as his share of the common elements. Before distribution to the unit owners of insurance or sale proceeds, all liens against a condominium parcel will be paid to the extent the proceeds allocated to said parcel are sufficient to do so.

**10.5 OTHER INSURANCE.** The Association shall maintain such insurance as is required under federal or state law, as well as such other insurance (including directors' and officers' liability insurance) and in such amounts as the Association Board of Directors shall determine from time to time to be necessary or desirable. The cost of such insurance shall be a common expense.

**10.6 UNIT OWNER'S INSURANCE.** Each individual unit owner is encouraged to purchase, at the owner's expense, liability insurance to cover accidents occurring within the owner's Unit and insurance on the owner's own personal property. No unit owner shall purchase any casualty insurance covering the owner's Unit without approval of the Association Board of Director.

**10.7 WAIVER OF SUBROGATION.** If available without additional cost, and where applicable, the Association and each unit owner shall endeavor to obtain policies which provide that the insurer waives the right of subrogation as to any claim against unit owners, the Association, their respective servants, agents and guests.

## **ARTICLE 11. SALE, RENTAL, LEASE OR TRANSFER.**

**11.1 NOTICE.** Prior to the sale, rental, lease or transfer of any Unit or any interest therein to any person other than the transferor's spouse, the unit owner shall notify the Association Board of Directors in writing of the name and address of the person to whom the proposed sale, rental, lease or transfer is to be made, and such other information as may be required by the Association on forms which the Board of Directors shall adopt for that purpose, together with a copy of the proposed lease or purchase agreement. The unit owner shall also pay an application fee to the Association in an amount not to exceed the maximum amount authorized by law and no application shall be deemed complete until that fee is paid. Within thirty (30) days of the Association's receipt of that information and fee, the proposed purchaser, lessee or grantee shall provide an interview with the Association, which shall be in person or, if the Association so allows in any instance for hardship

reasons, by telephone. The Association Board of Directors may disapprove of a proposed purchaser, lessee or grantee for any non-discriminatory reason. Within fifteen (15) days after that interview the Association shall either approve or disapprove the proposed sale, lease or transfer, and shall provide written notice of its decision to the unit owner, by personal delivery or by deposit in the U.S. mail, postage paid, or by telegram or facsimile transmission. The Board of Directors may appoint its managing agent or such other person or persons as it deems appropriate, for the purpose of receiving notice and acting for the Association in accordance with this Article 11.

## **11.2 REFUSAL TO ACT.**

**11.2.1** In the event the Association fails to timely act to approve, or disapproves a Unit lease for which timely and complete application for approval has been made, the lease shall be considered approved. In the event the Association timely disapproves a Unit lease, the lease shall not be made and the proposed tenant shall not occupy the Unit.

**11.2.2** In the event the Association fails to act, or disapproves a proposed sale or transfer, and if the unit owner still desires to proceed with the sale or transfer, the owner shall, at least fifteen (15) days prior to such sale or transfer, give written notice to the Secretary of the Association of the owner's intention to sell or transfer the Unit on a certain date, and the bona fide price and other terms thereof, and the Association shall promptly notify its members of such date, price and terms.

**11.2.3** The members of the Association shall have the first right over non-members to purchase on the terms and conditions contained in the notice, provided they so notify the Secretary of the Association, in writing, at least ten (10) days before the date of the intended transaction, which information the Association shall promptly forward to the owner. In the event the member giving notice receives acceptance from more than one member, it shall be discretionary with the member giving notice to consummate the transaction with whichever accepting member he chooses. If no written notice accepting the price and terms is received from any other member as aforesaid, the selling member may complete the transaction on the date and at the price and terms given in his notice. If he fails to comply with the terms hereof, any other member shall have the right to redeem the Unit from the purchaser, subject to his reimbursing the purchaser for any monies expended, and immediately after such reimbursement, the purchaser shall convey all his right, title and interest to the member making the redemption.

**11.3 INSTITUTIONAL MORTGAGES.** Purchasers at foreclosure sales and institutional mortgagees acquiring title to any Unit, either by foreclosure or voluntary conveyance to avoid foreclosure, shall be exempt from the provisions of this Article 11.

**11.4 CORPORATE OWNERSHIP.** Ownership of a Unit by a corporation, company, or other business entity, which contemplates use of the Unit by a number of families, groups, and/or individuals periodically throughout the year is expressly prohibited in this condominium since such use is inimical to the residential character and nature of this condominium.



**11.5 LEASE TO CORPORATION.** No Unit shall be leased to a corporation, company, or other business entity which contemplates use of the Unit by a number of families, groups, and/or individuals periodically throughout the year is expressly prohibited in this condominium since such use is inimical to the residential character and nature of this condominium.

**11.6 MULTIPLE OWNERSHIP.** Ownership of a Unit by more than one person shall be limited to those persons related by blood or marriage unless specifically approved in writing in advance by the Board of Directors. In the event such written approval is obtained, the Association shall execute and deliver to the prospective purchaser a certificate executed by the Association President and Secretary attesting therein to the approval by the Association of the ownership of the Unit by the prospective purchaser which approval shall be certified as having been obtained in compliance with this Article 11. The certificate may be recorded by the purchaser at the time of closing in the Public Records of Sarasota County, Florida.

## **ARTICLE 12. USE RESTRICTIONS.**

In order to provide for congenial occupancy of the condominium property and to better protect the values of the condominium units, the use of the condominium property and units shall be restricted by and in accordance with the following provisions as long as the Condominium exists:

**12.1 RESIDENTIAL USE.** Each condominium Unit shall be used exclusively as a single family residential dwelling. Single Family shall mean occupancy by a single housekeeping unit composed of one (1) person; two (2) people no matter how related; or three (3) or more persons all of whom are related to each other by blood, marriage, legal custodian, or legal designee of a parent for a minor child residing within the Unit, it being the intention of this provision to prohibit occupancy of the Unit by three (3) or more unrelated adults while clarifying that nothing herein shall be applied or construed to permit discrimination based upon familial status, handicap or other protected classification under federal and Florida fair housing laws. No industry, occupation, profession, commercial business or trade (including but not limited to garage sales and yard sales) shall be permitted to be conducted thereon or therein, except the Association is authorized to operate a rental and/or sales program solely for condominium units for the benefit of the unit owners.

**12.2 INTERFERENCE.** Occupants of condominium units shall not suffer, permit or maintain in their premises loud noises or obnoxious odors, nor otherwise unreasonably interfere with the rights of other unit owners. No use or practice shall be permitted which is a source of unreasonable annoyance to residents or other occupants of units or which interferes with the peaceful possession or proper use of the condominium property. All parts of the condominium property shall be kept in a clean and sanitary condition, and no rubbish, refuse, nor garbage shall be allowed to accumulate nor any fire hazard allowed to exist.

**12.3 LAWFUL CONDUCT.** No immoral, improper, offensive, hazardous or unlawful use shall be made of the common elements, Association property or of a Unit. All laws, ordinances and regulations of all governmental bodies must be obeyed. Violations of laws, orders, rules,

regulations or requirements of any governmental agency having jurisdiction there over, relating to any portion of the condominium property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the condominium property, as elsewhere herein set forth. No unit owner shall permit or suffer anything to be done or kept in the owner's Unit which would be a health, safety or fire hazard or which will increase insurance rates on the owner's Unit or on the common property. No unit owner shall commit or permit any nuisance, immoral or illegal act in the owner's Unit, nor in or on the common elements.

**12.4 RULES.** Owners, tenants and occupants of units shall abide by all provisions of this Declaration and all rules promulgated by the Association concerning occupancy and use of units, common elements and limited common elements.

**12.5 EXTERIOR ARTICLES.** No wire, clothes lines, hangers or drying facilities, nor any garbage or refuse receptacles, shall be permitted or maintained on the exterior of any Unit, nor on the limited common elements nor (except by the Association) in or on any part of the common elements; no clothes, rugs, drapes, spreads or household articles or goods of any sort shall be dried, aired, beaten, cleaned or dusted by hanging or extending the same from any window or door.

**12.6 SIGNS.** No sign of any type shall be maintained, kept or permitted on any part of the common elements or limited common elements, nor in or on any Unit where the same may be viewed from the common elements, except for those signs specifically approved in writing by the Association Board of Directors. No "For Sale" sign nor commercial advertisement shall be displayed on or within any vehicle located on the Condominium property. As an exception to the above, each owner may display one small security company sign. A U.S. Flag may be displayed in a tasteful, respectful and appropriate manner.

**12.7 TELEVISION AND OTHER OUTDOOR ANTENNAE.** No television, radio, satellite, or other antenna or satellite system may be installed on the common elements or limited common elements without prior Association Board of Directors' written approval. Certain television, satellite, or other antenna systems may be erected or installed on a Unit subject to compliance with the following requirements:

**12.7.1 Permitted Antennae.** Permitted antennae include (collectively hereinafter referred to as "antennae"):

**12.7.1.1** Direct broadcast satellite dishes (DBS) that are less than one meter (39 inches) or less in diameter.

**12.7.1.2** Multi-channel, multi-point distribution service devices (MMDS) that are less than one meter in diameter of diagonal measurement. Such devices may be mounted on masts to reach the height needed to establish line of sight contact with the transmitter provided no mast may be higher than twelve feet (12') above the building roof line without prior written approval of the Association.

**12.7.1.3** Television broadcast antennas for local stations, which may be any reasonable size, which may be secured to a mast located no higher than twelve feet (12') above the building roof line. Any mast located higher than twelve feet (12') above the building roof line must be approved in writing by the Association.

**12.7.2 Antennae Location.** To the extent feasible, all antennae must be placed in locations that are not visible from any street and in a location to minimize annoyance or inconvenience to other unit owners or persons if this placement would still permit reception of an acceptable quality signal.

**12.7.3 Paint.** All antennae shall be painted to blend into the background against which they are mounted for so long as the paint will not interfere with an acceptable quality signal. All antennae shall be screened from view from neighboring properties and pedestrian and vehicular access areas with landscaping plants commonly used in or about the condominium at a height of at least forty-eight inches (48"). Taller antennae shall be screened to their full height if reasonably practicable and if the screening would not impair the reception of an acceptable quality signal.

**12.7.4 Compliance with Requirements.** To safeguard the safety of the unit owner, occupants of the residence in which the antennae are located, neighboring unit owners, and other owners and persons residing in the condominium, it shall be the obligation of the owner to comply with all applicable local, state and federal safety requirements, including, but not limited to, obtaining a permit for the installation of the antenna, if any, hiring licensed contractors with sufficient expertise and adequate insurance to protect their work, installing the antennae away from power lines and other potentially dangerous areas, installing and using the antennae in accordance with safety recommendations and requirements of the antenna manufacturer, and in accordance with the customs and standards for the antenna industry, including compliance with electrical code requirements to properly ground the antenna, and installation requirements to properly secure the antenna.

**12.7.5 Other Antennae.** No mast or antenna or similar structure for the transmitting or receiving of am/fm radio, amateur radio or any other form of radio communication shall be permitted.

**12.8 PARTITION.** No condominium parcel or Unit shall be divided or subdivided or severed from the realty, nor shall any Unit be subject to partition in kind.

**12.9 GUESTS.** All guests and tenants of the owner shall comply with all of the restrictions in this Article 12 and with all rules of the Association. The Association may require any guest or tenant who continues to violate a restriction or rule, after due warning to the guest, owner or tenant, to leave the condominium property. The owner and tenant of a Unit being occupied by a guest shall be held responsible for any damage to the common elements committed by the guest and shall see that the guest complies with such restrictions and rules. In no event shall any three (3) bedroom Unit be occupied by more than six (6) persons, no two bedroom units shall be occupied by more than four (4) persons, and no one (1) bedroom Units shall be occupied by more than two (2) persons.

**12.10 EXTERIOR ALTERATIONS.** No owner shall alter or modify the exterior or exterior appearance of any portion of the Unit without obtaining the prior written approval of the Association Board of Directors. Also, no Unit alteration or improvement may be constructed which encroaches upon the common elements without the unanimous unit owner and lien owner joinder and consent required by section 718.110(4), Florida Statutes.

**12.11 PARKING.** No boat, trailer, commercial vehicle (that is a vehicle with commercial markings or which is otherwise evidently used for commercial purposes), truck, motor home, recreational vehicle, motorcycle, motor scooter, van (except a van with passenger seats behind the driver and with windows in the front and rear) or vehicle which is inoperable, unlicensed or so deteriorated so as to be unsightly in the opinion of the Board of Directors, shall be parked where visible upon the condominium property except when loading and unloading or otherwise providing service to the owner or occupant of the Unit or to the Association. A unit owner, lessee or gratuitous occupant of a Unit shall only park his vehicle in the parking space so reserved and assigned to that particular Unit, and shall cause any remaining vehicles, if any, and the vehicles of any guests or invitees to be parked solely within those parking spaces designated guest parking and not already reserved and assigned to a particular Unit.

*See Approved Amendment at beginning of documents.*

**\*12.12 RENTALS.** In order to maintain the existing high quality of this residential condominium and to prevent it from becoming a lodging or transient facility, no Unit shall be leased, rented or occupied by other than the unit owner (exclusive of immediate family which is defined as the owner's or the owner's spouse's parents, grandparents, children or grandchildren) more than three (3) times in any calendar year. Entire units may be rented for a period of not less than thirty (30) days (28 days in February) and no individual rooms therein may be rented. A lease covering the latter part of one calendar year and carrying over into the next calendar year shall be treated as a one-time lease only in the year it commences. During the period a Unit is leased, the unit owner shall not have the right to use the common elements and facilities except as a guest of the tenant. All tenants and Unit occupants shall be subject to and must comply with the provisions of the Declaration, Articles of Incorporation, Association Bylaws and Association Rules, and any failure or refusal to comply therewith shall be deemed a default and breach of the lease.

*— 12.12a*

**12.13 FLOORING RESTRICTIONS.** With respect to units not on the first floor, a unit owner shall maintain flooring with the same or better sound deadening qualities (Impact Insulation Class or IIC) as the carpet initially provided by developer in the areas originally carpeted by developer. If hardwood flooring or ceramic tile is installed, the insulation must include an underlayment such as 1/2" soundboard material, 1/2" cork, or Kinetics 5/8" floorboard. Specifications must be approved by the Board prior to installation and a Certificate of Compliance must be furnished by the unit owner to the Association upon completion. Any Unit not in compliance with the requirements of this Article 12.13, as amended in 1995 or as previously provided, shall be considered "grandfathered in" and exempt to the extent of its condition on January 1, 1995, provided however that this status shall be without prejudice to the right of any adversely affected Unit owner to maintain an action against the owner of any such Unit to abate noise or to recover damages on the grounds that the noise constitutes a nuisance or on any other grounds.



**12.14 PETS.** No dogs, pets or other animals shall be allowed in any Unit or on the common or limited common elements except for those pets owned by a unit owner which resided in a condominium Unit on or before December 16, 1988. Upon the death or removal of those pets, the pet shall not be replaced. No animals are permitted within any part of the common elements. Renters, guests, and gratuitous occupants are not permitted to have pets regardless of the duration of their visit or occupancy. The Association Board of Directors may make reasonable accommodations in this no pet restriction for handicapped people if necessary for them to occupancy a Unit (i.e., seeing-eye dog).

**ARTICLE 13.  
AMENDMENTS OF DECLARATION.**

**13.1 NOTICE.** The text of a proposed amendment shall be included in or with the notice of any meeting at which a proposed amendment is considered. Such notice shall contain the full text of the Article to be amended; new words shall be inserted in the text underlined, and words to be deleted shall be indicated by strike throughs. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and strike throughs as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language:

“Substantial rewording of Article. See Article \_\_\_\_\_ for present text.”

**13.2 PROPOSAL AND APPROVAL.** An amendment may be proposed either by the Board of Directors or by thirty percent (30%) of the members of the Association. Except as elsewhere provided, such approvals must be by not less than two-thirds (2/3rds) of the membership of the Association present (in person and by proxy) and voting at a membership meeting.

**13.3 EXECUTION AND RECORDING.** A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the President or Vice President of the Association and attested by the Secretary or Assistant Secretary of the Association, with the formality of a deed. The amendment shall be effective when such certificate and copy of the amendment are recorded in the Public Records of Sarasota County, Florida.

**13.4 LIMITATION ON AMENDMENTS.** No amendment shall change the proportionate share of the common expenses or common surplus nor the voting rights appurtenant to a Unit without the approval of one hundred percent (100%) of the institutional first mortgagees. No amendment shall be effective as to the institutional first mortgagees that impairs the rights or priorities of any mortgage without the approval of that mortgagee. Timeshares are prohibited.

**ARTICLE 14.  
REMEDIES FOR VIOLATIONS.**

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

**14.2 COMPLIANCE AND DEFAULT.** Each unit owner shall be governed by and shall comply with the terms of the Declaration of Condominium, Articles of Incorporation, Bylaws and Rules adopted by the Association Board of Directors. Failure of a unit owner to comply therewith shall entitle the Association or any unit owners to recover damages or obtain injunctive relief or both, but such relief shall not be exclusive of other remedies provided by law. The Association shall arbitrate prior to litigation in such instances and manner as required by state law. Also, the Association may levy fines for enforcement of rules and restrictions after notice and opportunity for a hearing and subject to limits, as provided in the Association Bylaws and by Association rule in accordance with the requirements of state law.

**14.3 COSTS AND ATTORNEYS' FEES.** In any proceeding arising out of an alleged failure of a unit owner or the tenant of a Unit to comply with the requirements of the Condominium Act, this Declaration, the Exhibits attached hereto, or the Rules adopted pursuant to said documents, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable trial and appellate attorneys' fees.

**14.4 NO WAIVER OF RIGHTS.** The failure of the Association or any unit owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation, the Bylaws, or the rules adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

**ARTICLE 15.  
TERMINATION OF CONDOMINIUM.**

In addition to the procedure to terminate the condominium contained in section 718.117, Florida Statutes, if all unit owners and the holders of all liens affecting any of the condominium parcels, execute and duly record an instrument terminating the condominium property, said property shall be deemed to be thereafter owned as tenants in common by the unit owners. The undivided interest in the property owned in common by each unit owner shall then become the percentage of the undivided interest previously owned by such owner in the common elements.

**ARTICLE 16.  
COVENANTS WITH LAND.**

All provisions of the condominium documents are covenants running with the land and every part of and interest in it. Every unit owner of and claimant against the land or an interest in it and his or her heirs, beneficiaries, personal representatives, successors and assigns is bound by the same condominium documents, as amended. Each owner expressly recognizes and agrees that all the terms and conditions of this Declaration of Condominium, the Articles of Incorporation and Association Bylaws are subject to future amendments by the membership of the Association and that no continuing reliance may be placed on any single term, condition, Article or right contained herein not being potentially amended or omitted.

**ARTICLE 17.  
MISCELLANEOUS.**

**17.1 INTERPRETATION.** The provisions of this Declaration shall be liberally construed to effect the purpose of creating a uniform plan for the operation of the Condominium in accordance with the laws made and providing for the same. In the event any term or provision of this Declaration of Condominium, Articles of Incorporation or Association Bylaws is ambiguous, the Association Board of Directors shall interpret the ambiguous language, and the Board's interpretation shall be binding on the Association and the unit owners unless the Board's interpretation is arbitrary or capricious.

**17.2 SEVERABILITY.** The invalidity or unenforceability in whole or in part of any covenant or restriction or any article, section, subsection, sentence, clause, phrase or word or other provision of this Declaration, or any exhibit attached thereto, shall not effect the remaining portions hereof.

**17.3 APPLICABLE STATUTES.** The validity, application and construction of this Declaration and its exhibits shall be governed by the laws of Florida, particularly the Condominium Act, as amended from time to time.

**17.4 CONFLICTS.** If there is a conflict between any provision of this Declaration and the Condominium Act, the Condominium Act shall control. In the event of any conflict, the Declaration shall take precedence over the Articles of Incorporation, Association Bylaws and applicable Association Rules and Regulations; the Articles shall take precedence over the Association Bylaws and applicable Association Rules and Regulations; and the Association Bylaws shall take precedence over applicable Association Rules and Regulations; all as amended from time to time.

**17.5 HEADINGS AND CAPITALIZATION.** The headings of paragraphs or sections herein, and the capitalization of certain words, are for convenience purposes only, and shall not be used to alter or interpret the provisions herein.