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CERTIFICATE OF AMENDMENT OF
DECLARATION OF CONDOMINIUM OF BONITA BEACH CLUB,
A CONDOMINIUM, AND ARTICLES OF INCORPORATION AND
BYLAWS OF BONITA BEACH CLUB ASSOCIATION, INC.

OR2292 PG3208

THE UNDERSIGNED, being the duly elected and acting President and Secretary of Bonita Beach Club Association, Inc., a Florida corporation not for profit, do hereby certify that at a duly called meeting of the Board of Directors, held on OCTOBER 30, 19990 where a quorum was present, all the resolutions set forth below were approved. Thereupon, at the Special Meeting of the members held on January 15, 1992, and reconvened on March 4, 1992, where a quorum was present, after due notice, the resolutions were approved and adopted by the votes indicated for the purpose of amending and restating the Declaration of Condominium of Bonita Beach Club, a Condominium, as originally recorded at O.R. Book 1239, Page 437 et seq., Public Records of Lee County, Florida, and amending and restating the Articles of Incorporation and Bylaws of the Association.

1. The following resolutions were approved by the affirmative vote of not less than seventy-five percent (75%) of the members of the Association.

RESOLVED: That the Declaration of Condominium of Bonita Beach Club, a Condominium, be and is hereby amended and restated, and the Amended and Restated Declaration of Condominium is adopted in the form attached hereto and made a part hereof; and

RESOLVED: That the Articles of Incorporation of Bonita Beach Club Condominium Association, Inc., be and are hereby amended and restated, and the Amended and Restated Articles of Incorporation are adopted in the form attached hereto and made a part hereof; and

RESOLVED: That the Bylaws of Bonita Beach Club Condominium Association, Inc., be and are hereby amended and restated, and the Amended and Restated Bylaws are adopted in the form attached hereto and made a part hereof; and it is further

RESOLVED: That the officers and Directors are hereby instructed and authorized to execute the aforementioned documents and cause them to be filed of public record, together with a Certificate of Amendment as required by law.

MARCH 20 1992
Date

BONITA BEACH CLUB ASSOCIATION, INC.

Dale R. Langford
Signature of Witness

DALE R. LANGFORD
Printed Name of Witness

Michael E. Hutchins
Signature of Witness

MICHAEL E. HUTCHINS
Printed Name of Witness

By Jack D. Hart
Jack D. Hart, President
(SEAL)

RECORD VERIFIED - CHARLIE GREEN, CLERK
BY: NART JO SOSTROM, P.C.

Attest:

Sarah Roush
Sarah Roush, Secretary

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 20th day of MARCH, 1992, by Jack D. Hart and Sarah Roush, President and Secretary, respectively, of Bonita Beach Club Association, Inc., a Florida corporation not for profit, on behalf of the Corporation. They are personally known to me or have produced (type of identification) as identification and who did (did not) take an oath.

Mary M. Berenillo
Notary Public
Printed Name: MARY M. BERENILLO
Commission No.: AA 694330
(Seal)

My Commission Expires:

NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES JULY 30, 1993
BONDED THRU AGENT'S NOTARY BOND

OR2292 PG3209

AMENDED AND RESTATED DECLARATION OF CONDOMINIUM

OF

BONITA BEACH CLUB, A CONDOMINIUM

SUBSTANTIAL REWORDING OF DECLARATION - SEE ORIGINAL

DECLARATION FOR ORIGINAL TEXT

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KNOW ALL MEN BY THESE PRESENTS:

That heretofore on December 9, 1977, the original Declaration of Condominium of Bonita Beach Club, a Condominium (hereinafter the "Condominium") was recorded in Official Record Book 1239, at Page 437 et seq., of the Public Records of Lee County, Florida. That Declaration of Condominium, as it has previously been amended, by that amendment providing a conditional grant of a public easement recorded in Official Records Book 1580, Page 230, et seq., of the Public Records of Lee County, Florida, is hereby further amended in part and is restated in its entirety.

1. SUBMISSION TO CONDOMINIUM OWNERSHIP - This Amended and Restated Declaration of Condominium is made by Bonita Beach Club Association, Inc., a Florida corporation not for profit, hereinafter the "Association". The land subject to this Declaration, the legal description to which is designated in Exhibit "A" to the original recorded Declaration of Condominium and incorporated herein by reference, and the improvements located thereon, have already been submitted to condominium ownership and use pursuant to the Florida Condominium Act. No additional property is being submitted to condominium ownership by this Declaration.

2. NAME - PLAN OF DEVELOPMENT - The Condominium consists of 198 separate and numbered residential units, designated in Exhibit "B" to the original recorded Declaration of Condominium, which exhibit is incorporated herein by reference. The Condominium is located at 25730 Hickory Boulevard S.W., Bonita Springs, Lee County, Florida 33923.

3. NAME - ASSOCIATION - The name of the Condominium Association is Bonita Beach Club Association, Inc. This Association is incorporated as a nonprofit Florida corporation, having been incorporated in 1977.

4. DEFINITIONS - The terms used herein shall have the meanings stated in the Condominium Act (Chapter 718, Florida Statutes) and as follows unless the context otherwise requires:

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4.1. ASSESSMENT - The share of the funds required for the payment of common expenses which from time to time is assessed against a unit owner.

4.2. ASSOCIATION - The corporation responsible for the operation of the Condominium.

4.3. ASSOCIATION PROPERTY - All property, real or personal, owned by the Association.

4.4. BOARD OF DIRECTORS - The Board of Directors responsible for administration of the Association.

4.5. CHARGE OR SPECIAL CHARGE - An obligation of a unit owner to pay or reimburse money to the Association which cannot be secured as an assessment pursuant to Section 718.116, Florida Statutes, but which is secured by a common law lien on the units and its appurtenances pursuant to this Declaration.

4.6. COMMON ELEMENTS - The portions of the property submitted to condominium ownership and not included in the units as defined in Section 718.108, Florida Statutes, including the land, all parts of the improvements which are not included within the units, easements and installations for the furnishing of services to more than one unit or to the common elements, such as water, sewer, and electricity, as defined with greater particularity in Section 5.4.1 hereof.

4.7. COMMON EXPENSES - All expenses and assessments properly incurred by the Association for the Condominium and such expenses as may be declared to be common expenses by this Declaration. Specifically, the expenses of providing cable television and other cable or SMATV (Satellite Master Antenna Television) delivered services to the Condominium under a bulk services contract or by the Association shall be a common expense unless Florida law provides otherwise.

4.8. COMMON SURPLUS - The excess of all receipts of the Association over the common expenses.

4.9. CONDOMINIUM DOCUMENTS - This Declaration and its attached exhibits, including previously promulgated documents incorporated herein by reference, which set forth the nature of the property rights in the Condominium and the covenants running with the land which govern these rights. All the Condominium documents shall be subject to the provisions of the Declaration and their order of precedence shall be as follows: (1) Declaration; (2) Articles of Incorporation; (3) Bylaws; (4) Rules and Regulations.

4.10. CONDOMINIUM PARCEL - A unit together with the undivided share in the common elements which is appurtenant to the unit.

4.11. CONDOMINIUM PROPERTY - The lands and personal property, both tangible and intangible, subject to condominium ownership, whether or not contiguous and all improvements thereon and all easements and rights appurtenant thereto.

4.12. FAMILY - means one natural person or a group of two or more natural persons each of whom is related to each of the others by blood, marriage or adoption; or not more than two persons not so related, who reside together as a single housekeeping unit.

4.13. GUEST - means any person who is physically present in or occupies a unit on a temporary basis at the invitation of the unit owner without the payment of consideration.

4.14. INSTITUTIONAL MORTGAGEE - means the mortgagee (or its assignee) of a first mortgage against a Condominium parcel, which mortgagee is a bank, savings and loan association, mortgage banker, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, or any agency of the United States of America. The term also refers to any holder of a first mortgage against a Condominium parcel which mortgage is guaranteed or insured, as evidenced by a recorded instrument by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America or by any other public or private corporation engaged in the business of guaranteeing or insuring residential first mortgage loans, and their successors and assigns.

4.15. LEASE - means the grant by a unit owner of a temporary right of use of the owner's unit for valuable consideration.

4.16. LIMITED COMMON ELEMENTS - Those portions of the common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

4.17. OCCUPANT or OCCUPY - when used in connection with a unit, means any person who is physically present in a unit on two or more consecutive days, including staying overnight.

4.18. OPERATION - The administration and management of the Condominium property.

4.19. PERSON - An individual, corporation, trust or other legal entity capable of holding title to real property.

4.20. SINGULAR, PLURAL, GENDER - Whenever the context so permits, the use of the plural shall include the singular, the singular, the plural and use of any gender shall be deemed to include all genders.

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4.21. UNIT - A part of the Condominium property which is subject to exclusive ownership. Apartment shall have the same meaning as unit.

4.22. UNIT NUMBER - The letter, number or combination thereof, which is designated in Exhibit "B", and which is used as the identification of a unit.

4.23. UNIT OWNER - The owner of a Condominium parcel.

4.24. VOTING INTEREST - means the voting rights distributed to the Association members pursuant to Section 718.104(4)(i), Florida Statutes.

5. UNITS SHALL BE CONSTITUTED AS FOLLOWS:

5.1. REAL PROPERTY - Each unit and all appurtenances thereto, 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 the Condominium documents and applicable laws.

5.2. BOUNDARIES - Units mean and comprise the one hundred ninety-eight (198) separate and numbered units which are designated in Exhibit "B" but excluding all spaces and improvements lying below the undecorated and/or unfinished inner surfaces of the perimeter walls and floors and above the undecorated and/or unfinished inner surfaces of the ceilings of each unit, and further excluding all spaces and improvements lying beneath the undecorated and/or unfinished inner surfaces of all interior bearing walls, floors, and/or bearing partitions and further excluding all pipes, ducts, wires, conduits and other facilities running through any interior wall or partition for the furnishing of utility services to any other units or common elements.

5.3. EXCLUSIVE USE - Each unit owner shall have the exclusive use of such owner's unit.

5.4. OWNERSHIP - The ownership of each unit shall carry with it, as appropriate, and whether or not separately described, all of the right, title and interest of a unit owner in the Condominium property which shall include but not be limited to:

5.4.1. COMMON ELEMENTS - Common elements mean and comprise all of the real property, improvements and facilities of the Condominium other than the units as same are hereinabove defined. Common elements shall include easements through units for all conduits, pipes, ducts, plumbing, wiring and all other facilities for the furnishing of utility services to units and common elements, and easements for support in every portion of a unit which contributes to the support of the improvements, and further includes all personal property held and maintained for the joint use and enjoyment of all of the owners of all units.

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5.4.2. LIMITED COMMON ELEMENTS - Limited common elements mean and comprise that portion of the common elements consisting of separate and designated areas, reserved for the exclusive use of, and as an appurtenance to, including, but not limited to, screened enclosures, covered parking spaces numbered 1 - 64 and outside parking spaces numbered 65 - 275, and storage areas assigned as an appurtenance to each unit, which areas bear the same number as the unit to which they are appurtenant. No owner of any unit shall have the right to use or enter upon or in any limited common element appurtenant to another unit.

5.4.3. ASSOCIATION MEMBERSHIP - Membership in the Association and an undivided share in the common surplus of the Association.

5.4.4. EASEMENT TO AIR SPACE - 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 lawfully altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is vacated from time to time.

5.5. EASEMENTS - The following non-exclusive easements from the Association to (as applicable) each unit owner, to the Association, and its employees, agents and hired contractors, to utility companies, unit owners' families in residence, guests, invitees and to governmental and emergency services, have previously been granted and created:

5.5.1. INGRESS AND EGRESS - Easements over the common areas for ingress and egress to units and public ways.

5.5.2. MAINTENANCE, REPAIR AND REPLACEMENT - Easements through the units and common elements for maintenance, repair and replacements. Such access is to be only during reasonable hours except that access may be had at any time in the case of an emergency.

5.5.3. UTILITIES - Easements through the common areas and units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of services to other units and the common elements.

5.5.4. GRANT OF UTILITY AND OTHER EASEMENTS - The Association has the power, without the joinder of any unit owner, to grant easements such as electric, gas, cable television, or other utility or service easements, or relocate any existing easements, in any portion of the common elements, and to grant access easements or relocate any existing access easements in any portion of the common elements as the Association shall deem necessary or desirable for the proper operation and maintenance of the Condominium. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with the use of the units. The Association may also transfer title to utility-related equipment, facilities or material, and to take any other action

to satisfy the requirements of any utility company or governmental agency to which any such utility-related equipment, facilities or material are to be so transferred.

5.5.5. PUBLIC SERVICES - Access to the property and to the units for emergency, regulatory, law enforcement and other public services in the lawful performance of their duties.

5.5.6. CONDITIONAL GRANT OF A PUBLIC EASEMENT - A non-exclusive public access easement is conditionally granted for the purpose of ingress, egress, and access by pedestrian traffic to and from beaches north of the Bonita Beach Club over, on, across, and through that certain property more particularly described on Exhibit "II" [attached to the original Declaration, as amended] and incorporated herein by reference. The easement area is 7 feet wide and traverses the western and southwestern boundary of the Bonita Beach Club Association, Inc.'s property from north to south. The grant of this easement is effective upon completion of construction of a rubble rip rap revetment in front of the Bonita Beach Club seawall as specified by the Florida Department of Natural Resources, Bureau of Beaches and Shores Construction Permit No. 80-26 more particularly described in Exhibit "III" [attached to the original Declaration, as amended] and incorporated herein by reference.

The easement may be terminated by the Bonita Beach Club Association, Inc. upon verification by the Department of Natural Resources, Bureau of Beaches and Shores that sufficient sand has accreted over or in front of the rip rap installation to provide a continuous 7 foot wide pathway above the line of mean low water for pedestrian access to beaches north of the Bonita Beach Club. In the event sand accretes in front of the revetment, the 7 foot wide pathway shall be measured between mean low water and the outer face of the revetment. If accreted sand covers the revetment, the 7 foot wide pathway shall be measured between mean low water and the outer face of the Bonita Beach Club seawall. If sand accreted over or in front of the installation is lost due to erosion, avulsion, or other natural forces subsequent to vacation of the first easement so that a 7 foot wide pathway no longer exists, the Bonita Beach Club Association, Inc., its successors or assigns, will grant an additional easement across their upland property in the same location and under the same terms and conditions as the initial easement created by this Declaration.

Upon written notification by a substantially affected party to the Bonita Beach Club Association, Inc. and the Department of Natural Resources that a 7 foot wide pathway above mean low water of the Gulf of Mexico no longer exists due to erosion, avulsion, or other natural forces, the Bonita Beach Club will allow immediate public use of a 7 foot wide pathway across its property in the vicinity of the existing seawall for passage to and from beaches to the north of Bonita Beach Club. Upon written verification by the Department of Natural Resources, Bureau of Beaches and Shores, that a 7 foot wide pathway above mean low water of the Gulf of Mexico no longer exists on the west or waterwards side of the project, the Bonita Beach Club Association, Inc. will grant the additional public easement for so long as such pathway does not exist or is not otherwise useable by the public.

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6. MAINTENANCE RESPONSIBILITY

6.1. MAINTENANCE - The responsibility for the maintenance of a unit shall be as follows:

6.2. BY THE ASSOCIATION - The Association shall maintain, repair and replace at the Association's expense:

6.2.1. Such portions of the unit as contribute to the support of the building including, but not limited to, outside walls of the apartment building, its exterior boundary walls, roofs, concrete slabs and foundations, load bearing columns and load bearing walls, including all conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services which are contained in the portion of the apartment building maintained by the Association; and all such facilities contained within a unit which services other parts of the Condominium property other than the unit within which contained.

6.2.2. Provided that if the maintenance, repair or replacement of any of the above Association expense maintenance items, or of other units, shall be made necessary because of the negligence, act or omission of a unit owner, his family, lessees, invitees or guests, the unit owner shall be liable and the work shall be done by the Association or the damaged unit owner(s) at the expense of the responsible unit owner and, if done by the Association, the cost shall be secured as a charge.

6.2.3. All incidental damage caused to a unit by work done or ordered by the Association shall be promptly repaired by and at the expense of the Association.

6.2.4. If the Association fails to maintain the common elements in accordance with its obligations, any unit owner or institutional first mortgagee may seek specific performance to compel the Association to do so.

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

6.3.1. To maintain, repair and replace at his expense, all portions of the unit except the portions to be maintained, repaired and replaced by the Association, and to pay for any utilities that are separately billed to his unit. The unit owner's responsibility specifically includes all windows and screens and associated hardware; screen enclosures; exterior doors, including sliding glass doors, door frames, and associated hardware; fixtures; switches; valves; fan motors; all air conditioning and heating equipment; ceiling fans; wiring; piping and duct work serving only the particular unit, whether located inside or outside the unit; stoves, refrigerators, fans, and other appliances and equipment, and which may now or hereafter be situated in the unit.

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6.3.2. A unit owner shall not paint, resurface or otherwise decorate or change the appearance of any portion of the improvements not within the interior walls of the unit.

6.3.3. No owner shall make any alterations in the portions of the improvements which are to be maintained by the Association or remove any portion thereof or make any additions thereto without the prior written approval of the Board of Directors. The entire expense of any such work shall be borne by the unit owner. No owner shall do any work which would jeopardize the safety or soundness of the improvements or impair any easements.

7. COMMON ELEMENTS

7.1. The common elements are owned in undivided shares as follows:

<u>Type of Unit</u>	<u>Unit Numbers</u>	<u>Percentage Per Unit</u>	<u>Number of Units</u>	<u>Percentage Per Type of Unit</u>
1 bedroom/ 1 bath	106, 118, 136, 142 154	.3362	5	1.6810
1 bedroom/ 1 bath	126	.3366	1	0.3366
2 bedroom/ 2 bath	200, 202, 204, 206, 208 210, 212, 214, 216, 218 220, 222, 242, 244, 246 248, 249, 250, 252, 254 256, 258, 260, 262, 300 302, 304, 306, 308, 309 310, 312, 314, 316, 318 320, 322, 340, 342, 344 346, 348, 350, 352, 354 356, 358, 360, 362, 400 402, 404, 406, 408, 410 412, 414, 416, 418, 420 422, 440, 442, 444, 446 458, 460, 462, 500, 502 504, 506, 508, 510, 512 514, 516, 518, 520, 522 540, 542, 544, 546, 548 550, 552, 554, 556, 558 560, 562, 600, 602, 604	.5011	144	72.1584

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<u>Type of Unit</u>	<u>Unit Numbers</u>	<u>Percentage Per Unit</u>	<u>Number of Units</u>	<u>Percentage Per Type of Unit</u>
	606, 608, 610, 612, 614 616, 618, 620, 622, 640 642, 644, 646, 648, 650 652, 654, 656, 658, 660 662, 700, 702, 704, 706 708, 710, 712, 714, 716 718, 720, 722, 740, 742 744, 746, 748, 750, 752 754, 756, 758, 760, 762			
3 bedroom/ 2 bath	224, 226, 228, 230, 232 234, 236, 238, 324, 326 328, 330, 332, 334, 336 338, 424, 426, 428, 430 432, 434, 436, 438, 524 526, 528, 530, 532, 534 536, 538, 624, 626, 628 630, 632, 634, 636, 638 724, 726, 728, 730, 732 734, 736, 738	.5380	48	25.8240
Total				100.00%

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7.2. The maintenance and operation of the common elements shall be the responsibility of the Association.

7.3. Each unit owner and the Association shall be entitled to use the common elements in accordance with the purposes for which they are intended, but no such use shall hinder or encroach upon the lawful rights of owners of other units.

7.4. Except as provided above as to changes made by an owner with Association approval, material alteration of, or substantial additions to, the common elements or Association property including the purchase, sale or exchange of real property by the Association, may be effectuated only by a vote of seventy-five percent (75%) of the total voting interests.

8. **FISCAL MANAGEMENT** - The fiscal management of the Association including such items as the budget, fiscal year, financial statements, assessments, and collection of assessments shall be as set forth in the Bylaws.

9. **ASSOCIATION** - The administration of the Condominium by the Board of Directors and its powers and duties shall be as set forth in the Bylaws.

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10. INSURANCE - In order to adequately protect the Association, the Association property and the Condominium property required to be insured by the Association, insurance shall be carried and kept in force at all times in accordance with the following provisions:

10.1. DUTY AND AUTHORITY TO OBTAIN - The Board of Directors shall use its best efforts to obtain and maintain adequate insurance. The name of the insured shall be the Association and the unit owners and their mortgagees without naming them, as their interests shall appear.

10.2. BASIC INSURANCE - The Association shall use its best efforts to obtain and maintain adequate replacement cost insurance (which term shall be construed to include the costs of the replacement improvements meeting then current building and fire codes and all other requirements of governmental entities with jurisdiction) covering all of the buildings, the common elements as well as all Association property, in an amount determined annually by the Board of Directors, such insurance to afford the following protection:

10.2.1. PROPERTY - Loss or damage by fire, extended coverage (including Windstorm), vandalism and malicious mischief, and other hazards covered by the standard "All Risk" property contract of insurance.

10.2.2. FLOOD - As appropriate to the flood zone in which the Condominium is located and made available through the National Flood Insurance Program.

10.2.3. LIABILITY - Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as required by the Board of Directors of the Association, with cross liability endorsement to cover liabilities of the unit owners as a group to a unit owner.

10.2.4. AUTOMOBILE - Automobile liability for bodily injury and property damage for all owner and/or non-owner motor vehicles in such limits of protection and with such coverage as may be required by the Board of Directors of the Association.

10.2.5. WORKERS' COMPENSATION - The Association shall maintain Workers' Compensation insurance on at least a minimum premium basis.

10.2.6. DIRECTORS' AND OFFICERS' LIABILITY - The Association shall maintain Directors' and Officers' liability insurance in an amount deemed adequate by the Board.

10.2.7. STATUTORY DISHONESTY BOND - Minimum of \$50,000, or as required by law, per Director, Officer, employee or persons having access to Association funds.

10.2.8. OPTIONAL COVERAGE - The Association may purchase and carry other such insurance coverage as the Board of Directors may determine to be in the best interest of the Association and the unit owners.

10.3. DESCRIPTION OF COVERAGE - A detailed summary of the coverage included in the master policies, and copies of the master policies, shall be available for inspection by unit owners upon request.

10.4. WAIVER OF SUBROGATION - If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogation as to any claim against unit owners, the Association, or their respective servants, agents or guests, except for any claim based upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

10.5. INSURANCE PROCEEDS - All insurance policies purchased solely by the Association shall be for the benefit of the Association, the unit owners and their mortgagees, as their interests may appear, and all proceeds shall be payable to the Association. The duty of the Association shall be to receive such proceeds as are paid and hold and disburse the same in trust for the purposes stated herein and for the benefit of the unit owners and their respective mortgagees in the following shares:

10.5.1. COMMON ELEMENTS - Proceeds on account of damage to common elements shall be held according to the percentage share set forth elsewhere in this Declaration, the share of each unit owner being the same as his share in the common elements.

10.5.2. UNITS - Proceeds on account of units shall be held in the following undivided shares:

10.5.3. PARTIAL DESTRUCTION, WHEN THE BUILDINGS ARE TO BE RESTORED - For owners of all units, each owner's share being in proportion to his share in the common elements appurtenant to his unit.

10.5.4. TOTAL DESTRUCTION, WHEN THE BUILDINGS ARE TO BE RESTORED - For owners of all units, each owner's share being in proportion to his share in the common elements appurtenant to his unit.

10.6. MORTGAGEE - If a mortgagee endorsement has been issued as to a unit, the shares of the mortgagee and the unit owner shall be as their interests appear. In no event shall any mortgagee have the right to demand application of insurance proceeds to any mortgage or mortgages which it may hold against units and no mortgagee shall have any right to participate in determining whether improvements will be restored after casualty.

10.7. DISTRIBUTION OF PROCEEDS - Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the unit owners in the following manner:

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10.7.1. COST OF RECONSTRUCTION OR REPAIR - If the damage for which the proceeds are paid is to be repaired or reconstructed by the Association, the remaining proceeds shall be paid to defray the costs thereof. Any proceeds remaining after defraying costs shall become part of the common surplus.

10.8. FAILURE TO RECONSTRUCT OR REPAIR - If it is determined in the manner elsewhere provided in this Declaration that the damages for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed to the affected owners, remittances to unit owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of mortgagees and may be enforced by such mortgagees.

10.9. ASSOCIATION AS AGENT - The Association is hereby irrevocably appointed agent for each unit owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the Condominium property.

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

11.1. DAMAGE TO UNITS - Where loss or damage occurs within a single unit or units, any Association insurance proceeds on account of the damage, less the deductible, shall be distributed to the owner(s) of the damaged units in shares proportional to the amount of damage in each unit covered by the Association policy. The owners of damaged units shall be responsible for reconstruction and repair.

11.2. DAMAGE TO COMMON ELEMENTS - LESS THAN "VERY SUBSTANTIAL" - Where loss or damage occurs to the common elements, but the loss is less than "very substantial", as hereinafter defined, it shall be mandatory for the Association to repair, restore or rebuild the damage caused by the loss, and the following procedures shall apply:

11.2.1. The Board of Directors of the Association shall promptly obtain reliable and detailed estimates of the cost of repair and restoration, and shall negotiate and contract for the repair and reconstruction of the common elements affected.

11.2.2. If the net proceeds of insurance plus available reserves are insufficient to pay for the cost of repair and reconstruction of the common elements, the Association shall promptly, upon determination of the deficiency, and if other funds such as reserves are not available, levy a special assessment against all unit owners in proportion to their shares in the common elements. Such special assessments need not be approved by the unit owners. The special assessments shall be added to the proceeds available for repair and restoration of the property.

11.3. "VERY SUBSTANTIAL" DAMAGE - As used in this Declaration, the term "very substantial" damage shall mean loss or damage whereby seventy-five percent

(75%) or more of the total units are rendered uninhabitable. Should "very substantial" damage occur, the following procedures shall apply:

11.3.1. The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of repair and restoration.

11.3.2. A membership meeting shall be called by the Board of Directors to be held not later than sixty (60) days after the casualty to determine the wishes of the membership with reference to rebuilding or termination of the Condominium, subject to the following:

11.3.3. If the insurance proceeds and reserves available for restoration and repair are sufficient to cover the cost thereof so that no special assessment is required, then the Condominium property shall be restored or repaired unless seventy-five percent (75%) of the total voting interests of the Association vote for termination, or unless the then applicable zoning or other regulatory laws will not allow reconstruction of the same number and general type of unit, in which case the Condominium shall be terminated.

11.3.4. If the insurance proceeds and reserves available for restoration and repair are not sufficient to cover the cost thereof so that a special assessment will be required, then, unless seventy-five percent (75%) of the voting interests of the Association vote in favor of such special assessment and against termination of the Condominium, the Condominium shall be terminated and the property removed from the provisions of the Condominium Act. If seventy-five percent (75%) of the total voting interests of the Association approve the special assessment, the Association, through its Board, shall levy such assessment and shall proceed to negotiate and contract for such repairs and restoration. The special assessment shall be added to the proceeds available for repair and restoration of the property.

11.4. If any dispute shall arise as to whether "very substantial" damage has occurred, a determination by the Board of Directors shall be binding upon all unit owners.

11.5. EQUITABLE RELIEF - In the event of substantial damage to the Condominium property, and if the property is not repaired, reconstructed, or rebuilt within a reasonable period of time, any unit owner may petition a court for equitable relief, which may include a termination of the Condominium and a partition. For the purposes of this provision, it shall be conclusively presumed that repair, reconstruction or rebuilding has occurred within a reasonable period of time if substantial work is commenced within twelve (12) months following the damage or destruction and is completed within a reasonable time thereafter absent extenuating circumstances beyond the control of the Association.

11.6. PLANS AND SPECIFICATIONS - Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the original buildings, or in lieu thereof, according to plans and specifications approved by the Board of Directors and by the owners of seventy-five percent (75%) of the total voting interests of the Association.

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12. USE RESTRICTIONS - The use of the property of the Condominium shall be in accordance with the Rules and Regulations attached hereto as Exhibit "F" and the following provisions:

12.1. LAWFUL USE - No immoral, improper, offensive, or unlawful use shall be made of any unit or of the common elements, or of the limited common elements, nor any part thereof, and all laws, zoning ordinances, and regulations of all governmental authorities having jurisdiction of the Condominium shall be observed. No owner of any unit shall permit or suffer anything to be done or kept in his unit, or on the common elements or on the limited common elements, which will increase the rate of insurance on the Condominium, or which will obstruct or interfere with the rights of other owners or occupants of other units, or annoy them by unreasonable noises, nor shall any such owner undertake any use or practice which shall create and constitute a nuisance to any other owner of a unit or which interferes with the peaceful possession and proper use of any other unit, or the common elements, or the limited common elements.

12.2. REGULATIONS - Reasonable regulations concerning the use of the Condominium property including the units may be made and amended from time to time by the Board of Directors of the Association. Copies of the regulations and amendments shall be furnished by the Association to all unit owners.

12.3. USE OF UNITS - Use of the units is restricted to single family residential purposes only. All live-in guests must be registered with the Association upon arrival and unregistered guests may be denied use of recreational facilities and amenities. No unit may be converted to time share use.

12.4. LEASING OF UNITS - Each unit is hereby restricted to residential use by the owner or owners thereof, their immediate families, guests and invitees. No owner or owners of any unit shall lease or rent his unit for a period of less than thirty (30) days or one (1) month, whichever is the lesser, however, no more than three (3) times a calendar year the owner or owners may lease their unit for a period of less than thirty (30) days but more than six (6) days each period of the lease and shall not permit use of the same for transient hotel or commercial purposes or operate in a fashion required of a public lodging establishment. The first day of occupancy under the lease shall determine in which year the lease occurs. No lease shall be for a period of more than one (1) year, and no option for the lessee to extend or renew the lease for any additional period shall be permitted. However, the Board may, in its discretion, approve the same lease from year to year. No subleasing or assignment of lease rights by the lessee shall be allowed.

12.4.1. OCCUPANCY DURING LEASE TERM - No one but the lessee, his family members within the first degree of relationship by blood, adoption or marriage, and their spouses and guests may occupy the unit. The total number of overnight occupants of a leased unit is limited to three (3) persons in a one (1) bedroom unit; five (5) persons in a two (2) bedroom unit; and six (6) persons in a three (3) bedroom unit.

12.4.2. USE OF COMMON ELEMENTS AND ASSOCIATION

PROPERTY -When a unit is leased, a tenant shall have all use rights in the Association property and those common elements otherwise readily available for use generally by unit owners and the unit owner shall not have such rights except as a guest. Nothing herein shall interfere with the access rights of the unit owner as a landlord pursuant to Chapter 83, Florida Statutes, the Florida Residential Landlord Tenant Act.

12.4.3. REGULATION BY THE ASSOCIATION - All of the

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

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

12.5.1. FORMS OF OWNERSHIP:

(A) Natural Person. A unit may be owned by one natural person who has qualified and been approved as elsewhere provided herein.

(B) Co-Ownership. Co-ownership of units is permitted. If the co-owners are other than husband and wife, the Board shall condition its approval upon the designation of one approved natural person as "primary occupant". The use of the unit by other persons shall be as if the primary occupant were the only actual owner. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Section.

(C) Ownership by Corporations, Partnerships or Trusts. A unit may be owned in trust, or by a corporation, partnership or other entity which is not a natural person, if approved in the manner provided elsewhere herein. The intent of this provision is to allow flexibility in estate, financial or tax planning, and not to create circumstances in which the unit may be used as short-term transient accommodations for several individuals or families or in a manner similar to a public lodging establishment. The approval of a trustee, or corporation, partnership or other entity as a unit owner shall be conditioned upon designation by the owner of one natural person to be the "primary occupant". The use of the unit by other persons shall be as if the primary occupant were the only actual owner. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of this Section.

(D) Designation of Primary Occupant. Within thirty (30) days after the effective date of this provision, each owner of a unit which is owned in the forms of ownership stated in preceding subsections (B) and (C) shall designate a primary occupant in writing to the Association. If any unit owner fails to do so, the Board of Directors may make the initial designation for the owner, and shall notify the owner in writing of its action.

(E) Life Estate. A unit may be subject to a life estate, either by operation of law or by a voluntary conveyance. The life tenant shall be the only Association member from such unit, and occupancy of the unit shall be as if the life tenant was the only owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy rights unless separately approved by the Association. The life tenant shall be liable for all assessments and charges against the unit. Any consent or approval required of association members may be given by the life tenant alone, and the consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-owners for purposes of determining voting and occupancy rights and shall be subject to Subsection (B), above.

12.5.2. TRANSFERS.

(A) Sale or Gift. No unit owner may dispose of a unit or any interest in a unit by sale or gift (including agreement for deed) without prior written approval of the Board of Directors.

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

(C) Other Transfers. If any person acquires title in any manner not considered in the foregoing subsections, that person shall have no right to occupy or use the unit before being approved by the Board of Directors under the procedures outlined.

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

12.5.3. PROCEDURES.

(A) Notice to Association.

(1) Sale or Gift. An owner intending to make a sale or gift of his unit or any interest therein shall give to the Board of Directors or its designee written notice of such intention at least twenty (20) days before the intended closing date, together

with the name and address of the proposed purchaser or donee, an executed copy of the sales contract, if any, and such other information as the Board may reasonably require. The Board may require a personal interview with any purchaser or donee and his spouse, if any, as a condition for approval.

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

(3) Demand. With the notice required in Subsection (A)(1) above, the owner or transferee seeking approval may make a written demand that if the transfer is disapproved without good cause, the Association shall furnish an approved alternate purchaser who shall purchase the unit at the same price and upon substantially the same terms as in the disapproved sales contract, or if no contract is involved, for the fair market value of the unit determined as provided below.

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

(B) Board Action. Within twenty (20) days after receipt of the required notice and all information or interviews requested, or not later than sixty (60) days after the notice required by paragraph (A) above is received, whichever occurs first, the Board shall approve or disapprove the transfer. If a transfer is approved, the approval shall be stated in a Consent to Transfer executed by the President or Vice-President of the Association in recordable form and delivered to the transferee. If the Board neither approves nor disapproves within the time limits as set forth above, such failure to act shall be deemed the equivalent of approval and on demand the Board shall issue a Consent to Transfer to the transferee.

(C) Disapproval.

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

(a) The person seeking approval has been convicted of a felony involving violence to persons or property, or a felony demonstrating dishonesty or moral turpitude;

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

(c) The application for approval on its face indicates that the person seeking approval intends to conduct himself in a manner inconsistent with the covenants and restrictions applicable to the Condominium;

(d) The person seeking approval has a history of disruptive behavior or disregard for the rights or property of others;

(e) The person seeking approval has evidenced an attitude of disregard for association rules or by his conduct in this Condominium as a tenant, unit owner or occupant of a unit;

(f) The transfer to the person seeking approval would result in that person owning more than five (5) units in the Condominium; or

(g) The person seeking approval has failed to provide the information, fees or interviews required to process the application in a timely manner, or provided false information during the application process.

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

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

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12.5.4. EXCEPTION - The approval and consent contained herein are not applicable to the acquisition of title by a mortgagee who acquires title through the mortgage, whether by foreclosure or deed in lieu of foreclosure.

12.5.5. UNAPPROVED TRANSFERS - Any sale or transfer which is not approved, or which is disapproved pursuant to the terms of this Declaration, shall be void unless subsequently approved in writing by the Board.

12.6. FEES AND DEPOSITS RELATED TO THE SALE OR LEASE OF UNITS - Whenever herein the Board's approval is required to allow the sale or other transfer of an interest in a unit, the Association may charge the owner a preset fee for processing the approval, which fee shall not exceed the maximum amount allowed by law. No fee may be charged for approval of a renewal or extension of a lease with the same lessee. The Association may also require any deposits that are authorized by the Condominium Act as amended from time to time. The Association shall also be permitted to charge an administrative guest fee presently in the amount of \$40.00 in connection with the use of a unit while the owner is not in residence. Owner's parents, children, grandchildren, and their respective spouses using an owner's unit are exempt from this fee. This fee may not be increased by more than twenty percent (20%) on an annual basis without the approval of seventy-five percent (75%) of the voting interests of the Association.

12.7. NOTICE OF SUIT - An owner shall give notice to the Association of every suit or other proceeding which may affect the title to his unit, such notice to be given immediately after the owner receives knowledge thereof.

12.8. JUDICIAL SALES - Judicial sales are exempt from this Section.

13. COMPLIANCE AND DEFAULT - Each owner and the Association shall be governed by and shall comply with the terms of the Condominium documents as they may be amended from time to time.

13.1. FAILURE TO COMPLY - Failure to comply shall be grounds for relief, which relief may include, but shall not be limited to, an action to recover damages or injunctive relief or both. Actions may be maintained by the Association or by any unit owner. No litigation shall be initiated until such time as the matter has been submitted to non-binding arbitration pursuant to Section 718.1255, Florida Statutes.

13.2. PREVAILING PARTY RECOVERY - In any such proceeding, including arbitration, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorneys' fees, including appeals.

13.3. NO WAIVER OF RIGHTS - The failure of the Association or any owner to enforce any covenant, restriction or other provision of the Condominium documents shall not constitute a waiver of the right to do so thereafter as to subsequent or other infractions.

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14. AMENDMENTS - Amendments to any of the Condominium documents shall be in accordance with the following:

14.1. PROCEDURE - An amendment may be proposed either by the Board of Directors or by the owners of ten percent (10%) of the units, and may be considered at any meeting of the owners, regular or special, of which due notice has been given according to the Bylaws, which notice includes notice of the substance of the proposed amendment. Passage shall be evidenced by a certificate executed in recordable form signed by the President or Vice President of the Association, that it has been enacted by the affirmative vote of the required percentage of unit owners, and the separate written joinder of mortgagees where required, and shall include the recording data identifying the location of the Declaration as originally recorded. The amendment shall become effective when recorded in the Public Records.

14.2. REGULAR AMENDMENTS - Amendments may be enacted by a favorable vote of the owners of seventy-five percent (75%) of the total voting interests in the Association.

15. TERMINATION - The Condominium may be terminated in the following manner:

15.1. AGREEMENT - The Condominium may be terminated at any time by approval, in writing, of ninety percent (90%) of the voting interests of the Association.

15.2. VERY SUBSTANTIAL DAMAGE - If the Condominium, as a result of casualty, suffers "very substantial damage" to the extent defined in Section 11.3, and it is not decided as therein provided that it will be reconstructed or repaired, the Condominium form of ownership will thereby terminate without agreement.

15.3. GENERAL PROVISIONS - Upon termination, the former unit owners shall become the owners, as tenants in common, of all Condominium and Association property and the assets of the Association. The shares of such tenants in common shall be the same as were their percentage shares of the common elements. The mortgagee or lienor of a unit owner shall have a mortgage or lien solely and exclusively upon the undivided share of such tenant in common in and to the lands and other properties and rights which he may receive by reason of such termination. The termination of the Condominium shall be evidenced by a certificate of the Association executed by its President and Secretary certifying as to facts affecting the termination. Termination shall become effective when that certificate is recorded in the Public Records of Lee County, Florida.

15.4. NEW CONDOMINIUM - The termination of the Condominium does not bar creation of another Condominium affecting all or any portion of the same property.

15.5. PARTITION; SALE - Following termination, the Condominium and Association property may be partitioned and sold upon the application of any unit owner. If following a termination, the owners of seventy-five percent (75%) of the total voting interests of the Association determine to accept an offer for the sale of the property, all owners shall be bound to execute deeds and other documents reasonably required to effect the sale. In such event, any action for partition of the property shall be held in abeyance pending the sale, and upon the consummation of the sale shall be discontinued by all parties thereto.

15.6. LAST BOARD - The members of the last Board of Directors shall continue to have the powers granted in this Declaration for the purpose of winding up the affairs of the Association, notwithstanding the fact that the Association itself may be dissolved upon a termination.

15.7. PROVISIONS SURVIVE TERMINATION - The provisions of this Section 15 shall be deemed covenants running with the land, and shall survive the termination of the Condominium until all matters covered by those provisions have been completed.

16. RIGHTS OF MORTGAGEES

16.1. EXCUSAL OF PRIOR ASSESSMENTS - Where an institutional holder of a first mortgage of record obtains title to a unit by foreclosure, or by deed in lieu of foreclosure, such mortgagee and its successors and assigns shall not be liable for such unit's assessments, charges or share of the common expenses which became due prior to acquisition of title, unless such unpaid assessments are secured by a claim of lien recorded prior to the recordation of the mortgage, or if the mortgagee has failed to (a) record in the Official Records a deed in lieu of foreclosure or (b) file a foreclosure proceeding in a court of appropriate jurisdiction within six (6) months after the last payment of principal or interest received by the mortgagee. The six (6) month period shall be extended for any period of time during which the mortgagee is precluded from initiating such procedure due to the bankruptcy laws of the United States, and in no event shall the mortgagee be liable for more than six (6) months of the unit's unpaid common expenses or assessments accrued before the acquisition of the title to the unit by the mortgagee. Such mortgagee may obtain title, own, occupy, lease, sell or otherwise dispose of such unit without the approval of the Association.

16.2. REQUESTS FOR INFORMATION - Upon receipt by the Association from any institutional mortgagee, guarantor or insurer of a copy of the mortgage held by such institutional mortgagee, guarantor or insurer on a unit, together with written request therefor from such institutional mortgagee or an insurer or guarantor of such first mortgage specifying the address to which the following items are to be sent, the Association shall timely send to such institutional mortgagee, insurer or guarantor the following, and for which the Association may charge a reasonable fee:

16.2.1. FINANCIAL STATEMENT - A copy of a financial statement of the Association for the prior fiscal year; and

16.2.2. INSURANCE TERMINATION - Written notice of the cancellation or termination by the Association of any policies of insurance covering the Association common elements or any improvements thereon, or any fidelity bonds of the Association; and

16.2.3. DAMAGE TO CONDOMINIUM PROPERTY - Written notice of any damage or destruction to the improvements located on the Association common elements which affects a material portion of the project or the unit securing its mortgage; and

16.2.4. CONDEMNATION - Written notice of condemnation or eminent domain proceeding affecting a material portion of the project or the unit securing its mortgage; and

16.2.5. DELINQUENT OWNERS - Written notice of failure by an owner owning a unit encumbered by a first mortgage held by such institutional mortgagee to pay any assessments where such failure or delinquency has continued for a period of sixty (60) days.

16.2.6. FAILURE TO NOTIFY - The failure of the Association to send any such information or notice to any such institutional mortgagees shall have no effect on any meeting, act, or thing which was to have been the subject of such notice nor affect the validity thereof.

17. ENFORCEMENT OF ASSESSMENT LIENS - Liens for assessments may be foreclosed by suit brought in the name of the Association in the same manner as a foreclosure of a mortgage on real property and pursuant to Section 718.116, Florida Statutes. During occupancy, if so ordered by the Court, the owner shall be required to pay a reasonable rental, and the Association shall be entitled to the appointment of a receiver to collect it, and the Association shall have all the powers provided under the Florida Condominium Act, and shall be entitled to collect interest at the highest lawful rate (currently 18% per annum) on unpaid assessments and reasonable attorneys' fees, including appeals, and costs incident to the collection of such assessment or enforcement of such lien, with or without suit.

18. CREATION AND ENFORCEMENT OF CHARGE LIENS - The Association shall have a non-statutory common law lien upon the Condominium parcels to secure payment to the Association by unit owners of all charges, administrative guest fees, costs and expenses for which they are liable to the Association and which cannot be secured as assessments, regular or special, under Section 718.116, Florida Statutes. The lien may be foreclosed in the same fashion as a mortgage on real property, shall bear interest at the

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highest lawful (currently 18% per annum) rate, and shall carry with it costs and attorney's fees, including appeals, incurred in collection.

19. ASSOCIATION MEMBERS - The qualification of members and the manner of their admission shall be as follows:

19.1. ALL OWNERS OF UNITS shall be members of the Association, and no other persons or entities shall be entitled to membership.

19.2. MEMBERSHIP IN THE ASSOCIATION shall be established by the recording in the Public Records of Lee County, a deed or other instrument establishing a change of record title to a unit in the Condominium; the new owner thereby becoming a member of the Association. The membership of the prior owner shall be thereby terminated. Provided, however, that the approval requirements contained in this Declaration of Condominium and the Bylaws must have been met before a person's membership commences.

20. CONDEMNATION:

20.1. DEPOSIT OF AWARDS WITH ASSOCIATION - The taking of all or any part of the Condominium property by condemnation or eminent domain shall be deemed to be a casualty to the portion taken and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty. Even though the awards may be payable to unit owners, the unit owners shall deposit the awards with the Association; and if any fail to do so, a special charge shall be made against a defaulting unit owner in the amount of his award, or the amount of that award shall be set off against any sums payable to that owner.

20.2. DETERMINATION WHETHER TO CONTINUE CONDOMINIUM - Whether the Condominium will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after a casualty.

20.3. DISBURSEMENT OF FUNDS - If the Condominium is terminated after condemnation, the proceeds of all awards and special assessments shall be deemed to be Condominium property and shall be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, the size of the Condominium shall be reduced, the owners of condemned units, if any, shall be made whole, and any property damaged by the taking shall be made usable in the manner provided below. Proceeds of awards and special charges shall be used for these purposes and shall be disbursed in the manner provided for disbursements of funds after a casualty.

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20.4. 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.

20.5. UNITS REDUCED BUT TENANTABLE - If the taking reduces the size of a unit and the remaining portion of the unit can be made tenantable, 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:

20.5.1. RESTORATION OF UNIT - The unit shall be made tenantable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be paid by the owner of the unit.

20.5.2. DISTRIBUTION OF SURPLUS - The balance of the award, if any, shall be distributed to the Association as common surplus.

20.6. UNIT MADE UNTENANTABLE - If the taking is of any entire unit, or so reduces the size of a unit that it cannot be made tenantable, 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:

20.6.1. PAYMENT OF AWARD - The fair market value of the unit immediately prior to the taking shall be paid to the owner of the unit and to each mortgagee of the unit, the remittance being made payable jointly to the owner and the mortgagee(s).

20.6.2. 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.

20.7. ADJUSTMENT OF SHARES IN COMMON ELEMENTS - The shares in the common elements appurtenant to the units that continue as part of the Condominium shall be equal to the number of such units remaining.

20.8. ARBITRATION - If the fair market value of a unit prior to the taking cannot be determined by agreement between the unit owner and the Association within thirty (30) days after notice by either party, the value shall be determined by appraisal according to the following. The unit owner, the first mortgagee, if any, and the Association shall each appoint one M.A.I. (Member, Appraisal Institute) appraiser, who shall appraise the unit and shall determine the fair market value by computing the arithmetic average of their appraisals of the unit; and a judgment of specific performance upon the value arrived at by the appraisers may be entered in any court of competent jurisdiction. The cost of appraisals shall be paid by the party selecting the appraiser.

20.9. 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, shall be distributed to the unit owners in the shares in which they own the common elements. If a unit is mortgaged, the remittance shall be paid jointly to the owner and mortgagee(s) of the unit.

20.10. 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 needs to be approved by seventy-five percent (75%) of all voting interests of the Association.

21. VOTING - Each unit shall have one full indivisible vote in all matters.

22. SEVERABILITY - If any provision of this Declaration or its exhibits as now constituted or as later amended or any section, sentence, clause, phrase or word, or the application thereof in any circumstances is held invalid, the validity of the remainder and the application of any such provision, section, sentence, clause, phrase, or word in other circumstances shall not be affected thereby.

23. EFFECTIVE DATE - This Amended and Restated Declaration shall not become effective until same is recorded in the Public Records of Lee County, Florida.

THIS AMENDED AND RESTATED DECLARATION OF CONDOMINIUM and attachments hereto made and entered into this 20th day of MARCH, 1992.

WITNESSES:

**BONITA BEACH CLUB
ASSOCIATION, INC.**

Wale R Langford
Witness **DALE R. LANGFORD**
(Please print name below signature)

By: Jack D. Hart
Jack D. Hart, President
(CORPORATE SEAL)

Michael E. Hutchins
Witness **MICHAEL E. HUTCHINS**
(Please print name below signature)

Attest:

Sarah Roush
Sarah Roush, Secretary

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 20th day of MARCH, 1992, by Jack D. Hart and Sarah Roush, President and Secretary, respectively, of BONITA BEACH CLUB ASSOCIATION, INC., who are personally known to me or who have produced _____ (type of identification) as identification and who did (did not) take an oath, on behalf of said corporation.

Mary M. Berenotto
Notary Public
MARY M. BERENOTTO
(please print name below signature)
Commission No. AA 694330
(SEAL)

My Commission Expires:

NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES JULY 30, 1993
BONDED THROUGH AGENT'S NOTARY BROKERAGE

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State of Florida



Department of State

I certify that the attached is a true and correct copy of Amended and Restated Articles of Incorporation, filed April 8, 1992, for BONITA BEACH CLUB ASSOCIATION, INC., a Florida corporation, as shown by the records of this office.

The document number of this corporation is 739563.

Given under my hand and the
Great Seal of the State of Florida,
at Tallahassee, the Capital, this the
8th day of April, 1992.



CR2EO22 (2-91)

A handwritten signature in cursive script that reads "Jim Smith".

Jim Smith
Secretary of State

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FILED
1992 APR -8 PM 3:14
SECRETARY OF STATE
TALLAHASSEE FLORIDA

AMENDED AND RESTATED ARTICLES OF INCORPORATION OF
BONITA BEACH CLUB ASSOCIATION, INC.

Pursuant to Section 617.1007, Florida Statutes, the Articles of Incorporation of Bonita Beach Club Association, Inc., a Florida corporation not for profit, originally filed on July 6, 1977, are hereby amended and restated in their entirety. All amendments included herein have been adopted pursuant to Section 617.1007, Florida Statutes, and there is no discrepancy between the corporation's Articles of Incorporation as heretofore amended and the provisions of these Amended and Restated Articles of Incorporation other than the inclusion of amendments adopted pursuant to Section 617.1007 and the omission of matters of historical interest. The Amended and Restated Articles of Incorporation of Bonita Beach Club Association, Inc., shall henceforth be as follows:

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ARTICLE I

NAME

The name of this corporation shall be: **BONITA BEACH CLUB ASSOCIATION, INC.**, and its address is 25730 Hickory Boulevard S.W., Bonita Springs, Florida 33923.

ARTICLE II

PURPOSES:

The purpose for which this corporation is organized is to provide an entity for the maintenance, operation, and management of Bonita Beach Club, a Condominium, located in Bonita Springs, Lee County, Florida, pursuant to the Declaration of Condominium of Bonita Beach Club.

ARTICLE III

QUALIFICATION OF MEMBERS AND MANNER OF ADMISSION:

The qualification of members and the manner of their admission shall be as follows: Any person or persons who hold title to a Condominium unit in the Condominium shall, by virtue of such ownership, be a member of this Corporation; provided however, that the approval requirements contained in the Declaration of Condominium and Bylaws must have been met before a person's membership commences. No other persons shall be members.

ARTICLE IV

TERM OF EXISTENCE:

The term for which this Corporation is to exist shall be perpetual, unless sooner dissolved pursuant to the provisions of Chapter 617, Florida Statutes.

ARTICLE V

DIRECTORS AND OFFICERS:

The affairs of this Corporation shall be managed by a governing Board of not less than five (5) Directors, each of whom shall be members of the Association (or spouses of members) and who shall be elected on the date of the Annual Meeting of the Corporation. The officers shall be: a President, one or more Vice Presidents, a Secretary, and a Treasurer, and such other assistant officers as the Directors shall decide. Such officers shall be elected by the Board of Directors. The officers and members of the Board shall perform such duties, hold office for such terms, and take office at such times as shall be provided by the Bylaws of the Corporation.

ARTICLE VI

BYLAWS:

The Bylaws of this Corporation may be made, altered, amended or repealed as provided for in the Bylaws.

ARTICLE VII

AMENDMENT OF ARTICLES OF INCORPORATION:

Amendments to these Articles of Incorporation may be proposed and adopted as follows:

An amendment may be proposed by either the Board of Directors or by ten percent (10%) of the voting interests.

The Amendment must be approved by a vote of seventy-five percent (75%) of the voting interests of the Corporation.

These Amended and Restated Articles of Incorporation were duly adopted by the required percentage of the members on March 4, 1992, the number of votes cast were sufficient for approval.

Signed this 20th day of MARCH, A.D. 1992.

BONITA BEACH CLUB ASSOCIATION,
INC.

By: Jack D. Hart
Jack D. Hart, President
(Corporate Seal)

ATTEST: Sarah Roush
Sarah Roush, Secretary

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 20th day of MARCH, 1992, by Jack D. Hart and Sarah Roush, President and Secretary of Bonita Beach Club Association, Inc., a Florida corporation not for profit, on behalf of the Corporation. They are personally known to me or have produced _____ (type of identification) as identification and did (did not) take an oath.

Mary M. Berenotto
Notary Public
Printed Name: MARY M. BERENOTTO
Commission No. AA694330

My Commission Expires:
~~NOTARY PUBLIC STATE OF FLORIDA AT LARGE~~
MY COMMISSION EXPIRES JULY 30, 1993
BONDED THRU AGENT'S NOTARY SECURAGE

(SEAL)

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AMENDED AND RESTATED BYLAWS

OF

BONITA BEACH CLUB ASSOCIATION, INC.

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1. IDENTITY - These are the Amended and Restated Bylaws of Bonita Beach Club Association, Inc., a nonprofit Florida corporation formed for the purpose of administering the Bonita Beach Club, a Condominium, (hereinafter referred to as the "Condominium") which is located in Bonita Springs, Lee County, Florida, upon the lands described in the Declaration of Condominium. The corporation shall hereinafter be referred to as the "Association".

1.1. OFFICE - The office of the Association shall be at the Condominium or such other location within the 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 October 1 - September 30.

1.3. SEAL - The seal of the Association shall bear the abbreviated name of the Association, the words "Florida" and "not for profit", and the year of establishment, 1977.

2. MEMBERS' MEETINGS

2.1. ANNUAL MEETINGS - Annual members' meetings shall be held at the Condominium or at such other convenient location as may be determined by the Board of Directors, on the second Tuesday of November each year, at 7:00 P.M., for the purpose of electing Directors and 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, Vice President or by a majority of the Board of Directors and when requested by written notice from ten percent (10%) of the Association voting interests. Members' meetings to recall a member or members of the Board of Directors may be called upon petition to the Board of Directors by ten percent (10%) of the Association voting interests.

2.3. NOTICE OF MEMBERS' MEETINGS - Notice of members' meetings, including the annual meeting, shall be sent to each unit owner by United States mail, unless waived in writing, at least fourteen (14) days prior to the meeting, provided however, that any members' meeting at which one or more Directors are to be elected shall be noticed

as provided for in Section 2.4. below. An officer of the Association shall execute an affidavit of mailing which shall be retained in the official records of the Association as proof of such mailing. Written notice of the meeting shall also be posted in a conspicuous place on the Condominium property at least fourteen (14) continuous days prior to the annual meeting. The Board, upon notice to unit owners, shall by duly adopted rule designate a specific location on the Condominium property upon which all notices of unit owner meetings shall be posted.

2.4. BOARD ELECTION MEETINGS - NOTICE AND PROCEDURE -

The regular election shall occur on the date of the annual meeting.

2.4.1. Not less than sixty (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 unit owner entitled to vote, a first notice of the date of the election. Any unit owner, or other eligible person, desiring to be a candidate for the Board of Directors shall give written notice of his candidacy to the Secretary of the Association not less than forty (40) days before a scheduled election. Not less than thirty (30) days before the election meeting, the Association shall then mail or deliver a second notice of the meeting to all unit owners entitled to vote together with a written ballot listing all candidates. Upon request of any candidate, the Association shall include an information sheet, no larger than 8 1/2 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. A voting machine may also be used by those attending the meeting in person, and a unit owner who needs assistance in voting due to blindness, disability or inability to read or write, may obtain assistance but no unit owner shall permit another person to cast his ballot and any such ballots improperly cast shall be deemed invalid.

2.4.3. There is no quorum requirement or minimum number of votes necessary in the election of Directors and elections shall be decided by a plurality of those votes cast. Cumulative and bullet voting is prohibited.

2.5. NOTICE - OWNERS' BUDGET MEETING - Notice of a special meeting called by the Board at the written request of ten percent (10%) of the owners because of a budget exceeding 115% of that of the preceding year requires at least ten (10) days' written notice to each unit owner.

2.6. NOTICES - ANNUAL AND SPECIAL - All notices of meetings shall state clearly and particularly the time, place, and purpose or purposes of the meeting and shall incorporate an identification of agenda items.

2.7. QUORUM - A quorum at members' meetings shall consist of persons entitled to cast a majority of the voting interests of the entire membership. Decisions made

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by a majority of the voting interests represented at a meeting at which a quorum is present in person or by proxy shall be binding and sufficient for all purposes except such decisions as may, by Chapter 718, Florida Statutes, or the documents, require a larger percentage in which case the percentage required in Chapter 718, Florida Statutes, or the documents shall govern.

2.8. OWNER PARTICIPATION - Unit owners shall have the right to participate in meetings of unit owners with reference to all designated agenda items. However, the Association may adopt reasonable rules governing the frequency, duration and manner of unit owner participation. Any unit owner may tape record or videotape a meeting of the unit owners subject to reasonable rules adopted by the Division.

2.9. INDIVISIBLE VOTE - Each unit shall have one indivisible vote. If more than one person owns a unit that vote may be cast by any one of the owners. If multiple owners of a unit cannot agree on a vote, the vote shall not be counted.

2.10. PROXIES - Votes may be cast in person or by proxy. 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 ninety (90) days, and must be filed with the Secretary before or at the time of voter registration immediately preceding the meeting. Except as specifically otherwise provided herein unit owners may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the Division. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce 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 Bylaws; and for any other matter which Chapter 718, Florida Statutes, requires or permits a vote of the unit owners. 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 nonsubstantive changes to items for which a limited proxy is required and given.

2.11. NO QUORUM - If any meeting of members cannot be organized because a quorum is not present, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

2.12. ORDER OF BUSINESS - The order of business at annual members' meetings and, as far as applicable at all other members' meetings, shall be:

- (a) Election of a Chairman of the meeting, unless the President or Vice President of the Association is present when he (or she) shall preside.
- (b) Proof of Notice of meeting or waiver of notice.
- (c) Calling of the roll and certifying of proxies.
- (d) Reading and disposal of any unapproved minutes.

- (e) Reports of Officers and Directors.
- (f) Reports of Committees.
- (g) Election of Directors.
- (h) Unfinished business.
- (i) New business.
- (j) Adjournment.

3. BOARD OF DIRECTORS

3.1. NUMBER, TERM, AND QUALIFICATIONS. The affairs of the Corporation shall be governed by the Board of Directors. The number of Directors which shall constitute the whole Board shall be five (5). Directors shall be members or spouses of members. The Directors shall be elected at the annual meeting, and each Director shall be elected to serve for a one (1) year term. The term of each Director's service shall extend until their elected term is completed and thereafter until their successor is duly elected and qualified or until the Director is recalled by a majority of the voting interests in the manner provided in Chapter 718, Florida Statutes.

3.2. BOARD VACANCIES - Vacancies in the Board of Directors occurring between annual meetings of members shall be filled by appointment by a majority vote of the remaining Directors; provided that a Director who has been recalled by the membership, if the membership does not choose to fill the vacancy by election, may not be appointed to fill the vacancy created by his removal. The filling of vacancies shall be in compliance with the provisions of Chapter 7D-23.001(12), Florida Administrative Code. Any seat held by a Director who ceases to be an owner shall automatically become vacant.

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, it shall be held immediately following the annual meeting.

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 noticed previously, shall be given to each Director personally or by mail, telephone or telecopier/facsimile at least three (3) 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 shall be called by the Secretary at the written request of any two (2) Directors. Not less than three (3) day's notice of the meeting (except in an emergency) shall be given personally or by mail, telephone or telecopier/facsimile, which notice shall state the time, place and purpose of the meeting.

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

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notice. Attendance by a Director at a meeting shall constitute waiver of notice of the meeting.

3.7. NOTICE TO OWNERS - Notice of meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the Condominium property at least 48 continuous hours in advance for the attention of unit owners, except in an emergency. Meetings at which a regular assessment is to be considered shall contain a statement that assessments will be considered and the nature of 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 proposed, discussed, or approved, shall be mailed or delivered to the unit owners and posted conspicuously on the Condominium property not less than fourteen (14) continuous days prior to the meeting. Evidence of compliance with this 14-day notice shall be by an affidavit executed by the Secretary and filed in the official records of the Association. Upon notice to the unit owners, the Board shall by duly adopted rule designate a specific location on the Condominium property upon which all notices of Board meetings shall be posted.

3.8. OWNER PARTICIPATION - Meetings of the Board of Directors, and any committee thereof at which a quorum of the members of that committee are present, shall be open to all unit owners. The right to attend such meetings includes the right to speak with reference to all designated agenda items. The Association may adopt reasonable rules governing the frequency, duration and manner of unit owner statements. Unit owners shall have the right to tape record or videotape the meetings of the Board of Directors, subject to reasonable rules adopted by the Division.

3.9. BOARD MEETINGS, QUORUM AND VOTING - A quorum at Directors' Meetings shall consist of a majority of the Directors. The acts approved by a majority of Directors present at a meeting shall constitute the acts of the Board. Directors may not vote by proxy or by secret ballot at Board meetings and a vote or abstention for each member present shall be recorded in the minutes. If at any meeting of the Board there is less than a quorum present, the Director(s) present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business which might have been transacted at 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.

3.10. PRESIDING OFFICER - The presiding officer at Directors' meetings shall be the President if such an officer has been elected; and, if none, then the Vice President shall preside. 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.

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4. POWERS AND DUTIES OF THE BOARD OF DIRECTORS - All of the powers and duties of the Association existing under the Florida Corporation Statutes, the Condominium Act, the Declaration of Condominium, the Articles of Incorporation and these Bylaws shall be exercised exclusively by the Board of Directors, or its duly authorized agents, contractors, or employees subject only to the approval by unit owners when such is specifically required. Such powers and duties of the Directors shall include, but not be limited to, the following:

- 4.1. To adopt budgets and make and collect assessments against owners to defray the costs of the Association.**
- 4.2. To use the proceeds of assessments in the exercise of its powers and duties.**
- 4.3. To maintain, repair, replace, and operate the Condominium property.**
- 4.4. To enact rules and regulations concerning the use of the common elements and the units, subject to any limitations contained in the Declaration of Condominium.**
- 4.5. To reconstruct and repair the Condominium property after casualty.**
- 4.6. To approve or disapprove proposed transactions in the manner provided by the Declaration of Condominium.**
- 4.7. To enforce by legal means the provisions of applicable laws and the condominium documents.**
- 4.8. To contract for management of the Condominium.**
- 4.9. To carry insurance for the protection of the unit owners and the Association.**
- 4.10. To pay the cost of all utility services rendered to the Condominium and not billed to owners of individual units.**
- 4.11. To employ personnel and designate other officers for reasonable compensation and grant them such duties as seem appropriate for proper administration of the purposes of the Association.**
- 4.12. To bring and defend suits, make and execute contracts, deeds, mortgages, leases and other instruments by its officers and to purchase, own, lease, convey and encumber real and personal property. To grant easements and licenses over the Condominium property necessary or desirable for proper operation of the Condominium.**

4.13. CONTRACTS FOR PRODUCTS AND SERVICES - All contracts for the purchase, lease or renting of materials or equipment or for services, or any contract that is not to be fully performed within one year, shall be in writing. As to any such contract which requires payment exceeding \$5,000.00 except for contracts with employees of the Association, attorneys, and accountants, 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. The Association need not accept the lowest bid.

4.14. FINES - The Directors may, pursuant to Section 718.303, Florida Statutes, impose fines not to exceed \$100.00, for failure to comply with the provisions of the Condominium documents, including the rules and regulations, by owners, occupants, licensees, tenants and invitees. A fine may be imposed for each day of continuing violation with a single notice and opportunity for hearing, provided that no fine shall in the aggregate exceed \$1,000.00.

4.15. The party against whom the fine is sought to be levied shall be afforded an opportunity for a hearing after reasonable notice of not less than fourteen (14) days and said notice shall include:

1. A statement of the date, time and place of the hearing;
2. A statement of the provisions of the Declaration, Articles of Incorporation, Bylaws, or rules and regulations which have allegedly been violated; and
3. A short and plain statement of the matters asserted by the association.

4.16. The party against whom the fine or sanction 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.

4.17. COMMITTEES - The Directors may appoint committees. All committees and committee members shall serve at the pleasure of the Board.

4.18. HURRICANE SHUTTERS - The Board of Directors shall adopt hurricane shutter specifications for each building within 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 requirements. The Board shall not refuse to approve the installation or replacement of hurricane shutters conforming to the specifications adopted by the Board.

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5. OFFICERS

5.1. EXECUTIVE OFFICERS - The executive officers of the Association shall be the President, one or more Vice Presidents, a Secretary, a Treasurer, and such assistant officers as may be desired, all of whom shall be elected annually by and from the Board of Directors and who may be removed by a majority vote of the Directors at any meeting. Any person may hold two or more offices except the President.

5.2. PRESIDENT - The President shall be the chief executive officer 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 - The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. The Vice President 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 - The Secretary shall keep the minutes of all proceedings of the Directors and the members; shall attend to the giving and serving of all notices to the members and Directors and other notices required by law; shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed; shall keep and have custody of the records of the Association, except those of the Treasurer; and 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 - The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness; shall keep the assessment rolls and accounts of the members; 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.

5.6. EMPLOYEES' COMPENSATION - The compensation of all employees of the Association shall be fixed by the Directors. This provision shall not preclude the Board of Directors from employing a Director as an employee of the Association provided any applicable laws are adhered to.

5.7. INDEMNIFICATION - Every Director and every officer and committee member of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees through all trial and appellate levels, reasonably incurred by or imposed in connection with any proceeding, mediation, arbitration, or settlement to which such person may be a party, or in which they may become involved, by reason of being or having been a Director, officer, or committee member of the Association.

Notwithstanding the foregoing, in the event of a voluntary settlement, the indemnification provisions herein shall not be automatic and shall apply only when the Board approves such settlement. Notwithstanding anything contained herein to the contrary, in instances where the Director, officer, or committee member admits or is adjudged guilty of gross negligence, willful malfeasance, misfeasance or nonfeasance in the performance of their duties, the indemnification provisions contained herein shall not apply. Otherwise, the foregoing right of indemnification shall be in addition to, and not exclusive of, any and all rights of indemnification to which such Director, officer or committee member may be entitled by common law or statute.

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

6. MINUTES AND INSPECTION OF RECORDS - Minutes of all meetings of unit owners and of the Board of Directors shall be kept in a businesslike manner and shall be reduced to written form within thirty (30) days. All Association official records, as defined in Section 718.111(12), Florida Statutes, shall be available for inspection by unit owners 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 copying.

7. FISCAL MANAGEMENT - The Association fiscal management shall be in accordance with the following provisions:

7.1. BUDGET - A proposed annual budget of common expenses shall be prepared by the Board of Directors which shall include all anticipated expenses for operation, maintenance and administration of the Association including insurance and management fees, if any, and which shall include reserves for capital expenditures and deferred maintenance which may later be waived by the owners. 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 at a duly called meeting of the Association. The budget shall contain a reasonable allowance for contingencies and provide funds for all unpaid 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 upon proper notice to the members.

7.2. MAILING - A copy of the proposed annual budget shall be mailed to the unit owners not less than fourteen (14) days prior to the meeting of the Directors at which the budget shall be adopted together with a notice of the meeting.

7.3. ASSESSMENTS - The shares of the unit owners of the common expenses shall be made payable in quarterly installments in advance. Payment shall be due on the first day of January, April, July, and October of each year and shall become delinquent ten (10) days thereafter. 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 recorded and may include the amounts due for the remainder of the fiscal year for which the claim of lien was recorded in the Public Records.

7.4. SPECIAL ASSESSMENTS AND CHARGES - Assessments and charges for expenses which are not provided for and funded in the budget shall be made by the Board of Directors, and the time of payment shall likewise be determined by them, provided same are related to the Association.

7.5. 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 unit owners. 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 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.

7.6. LIABILITY FOR ASSESSMENTS AND CHARGES - A unit owner shall be liable for all assessments and charges coming due while the owner of a unit, and such owner and owner's grantees after a voluntary conveyance 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 are made. Where an institutional mortgagee holding a first mortgage of record obtains title to a unit by foreclosure or by deed in lieu of foreclosure, such mortgagee and its successors and assigns shall not be liable for such unit's assessments, charges or share of the common expenses which became due prior to acquisition of title if the mortgagee has recorded in the Official Records a deed in lieu of foreclosure or filed a foreclosure proceeding in a court of appropriate jurisdiction within six (6) months after the last payment of principal or interest received by the mortgagee. The six (6) month period shall be extended for any period of time during which the mortgagee is precluded from initiating such procedure due to the bankruptcy laws of the United States, and in no event shall the mortgagee be liable for more than six (6) months of the unit's unpaid common expenses or assessments accrued before the acquisition of the title to the unit by the mortgagee.

7.7. LIENS FOR ASSESSMENTS - The unpaid portion of an assessment, including any accelerated assessment which is due, together with costs, interest and reasonable attorneys' fees for collection, shall be secured by a lien upon the unit and all appurtenances thereto when a notice claiming the lien has been recorded by the Association in accordance with the requirements of Section 718.116, Florida Statutes.

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7.8. UNPAID CHARGES - Unpaid charges which are due together with costs, interest and reasonable attorney's fees, including appeals for collection, shall be the basis for an action at law by the Association against the unit owner.

7.9. COLLECTION - INTEREST; ADMINISTRATIVE LATE FEE; APPLICATION OF PAYMENTS - Assessments paid on or before ten (10) 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 lawful rate (now 18% per annum) 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 \$25.00 or 5% of each installment of the assessment for which payment is late. All payments upon account shall be first applied to interest, then the late fee, then to any costs and reasonable attorney's fees and then to the assessment payment first due.

7.10. COLLECTION - SUIT - The Association, at its option, may enforce collection of delinquent assessments by suit at law, by foreclosure of the lien securing the assessments, 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 plus interest thereon and all costs incident to the collection and the proceedings, including reasonable attorneys' fees, including appeals. The Association shall mail by certified mail to the unit owner a written notice of its intention to foreclose the assessment lien thirty (30) days before commencing foreclosure, unless Notice of Contest of Lien has been filed.

7.11. ACCOUNTS - All sums collected from assessments or charges shall be credited to accounts from which shall be paid the expenses for which the respective assessments or charges are made.

7.12. ASSOCIATION DEPOSITORY - The depository of the Association shall be a bank or banks or state or federal savings and loan associations (or other financial institutions as defined in Section 655.005, Florida Statutes) with offices in Florida as shall be designated from time to time by the Directors and in which the monies for the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

7.13. COMMINGLING OF FUNDS PROHIBITED - All funds shall be maintained separately in the Association's name. In addition, reserve funds shall be maintained separately from operating funds in separate accounts. No manager or business entity required to be licensed or registered under Section 468.432, Florida Statutes, and 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.

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7.14. FINANCIAL REPORTS - A complete financial report of actual receipts and expenditures of the Association shall be made annually which shall comply with Chapter 7D-23.004, Florida Administrative Code, and with Section 718.111(13), Florida Statutes. A copy of the report shall be furnished to each member within thirty (30) days after its completion and delivery to the Directors or at the annual meeting.

7.15. FIDELITY BONDING - The Association shall obtain and maintain adequate fidelity bonding in the minimum principal sum of \$50,000 per person who controls or disburses Association funds. The Association shall bear the cost of bonding. However, in the case of a person providing management services to the Association and required to be licensed pursuant to Section 468.432, Florida Statutes, the cost of bonding may be reimbursed by the Association; all such persons providing management services to an Association shall provide the Association with a certificate of insurance evidencing compliance with this paragraph.

8. PARLIAMENTARY RULES - A parliamentary procedure such as Robert's Rules of Order uniformly applied shall govern the conduct of corporate proceedings when not in conflict with the Declaration, the Articles of Incorporation or Bylaws of the Association or with the laws of the State of Florida.

9. BY-LAW AMENDMENTS - Amendments to the Bylaws shall be adopted in the following manner:

9.1. NOTICE of the subject matter of a proposed amendment shall be included in the notice of any meeting or the text of any written agreement at which or by which a proposed amendment is considered.

9.2. PROPOSAL OF AMENDMENTS - An amendment may be proposed by either a majority of the Directors or by ten percent (10%) of the voting interests.

9.3. ADOPTION OF AMENDMENTS - A resolution or written agreement adopting a proposed amendment must receive approval of seventy-five percent (75%) of the voting interests of the Association.

9.4. EFFECTIVE DATE - An amendment when adopted shall become effective only after being recorded in the Public Records.

9.5. AUTOMATIC AMENDMENT - These Bylaws shall be deemed amended, if necessary, so as to make the same consistent with the provisions of the Declaration of Condominium, the Articles of Incorporation, or the Condominium Act, as amended from time to time.

9.6. PROPOSED AMENDMENT FORMAT - Proposal to amend existing Bylaws shall contain the full text of the Bylaws 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 BYLAWS. SEE BYLAW NUMBER _____ FOR PRESENT TEXT."

10. **MANDATORY ARBITRATION OF DISPUTES** - If unresolved, disputes between the Board and unit owners as defined in Section 718.1255(1), Florida Statutes, must be arbitrated in mandatory non-binding arbitration proceedings as provided in the Condominium Act prior to commencing litigation.

The foregoing were adopted as the Amended and Restated Bylaws of BONITA BEACH CLUB ASSOCIATION, INC. on the 4th day of March, 1992.



JACK D. HART, PRESIDENT

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