

DECLARATION OF CONDOMINIUM
REGATTA LANDING, A CONDOMINIUM

AMENDED AND RESTATED DECLARATION OF CONDOMINIUM
FOR
REGATTA LANDING, A CONDOMINIUM

The original Declaration of Condominium for Regatta Landing, a Condominium (the “Condominium”) was recorded in Official Records Book 5234 Page 3570 of the Public Records of Collier County, Florida. That Declaration of Condominium, as previously amended, is hereby further amended and restated in its entirety. The Land (as hereafter defined), together with all improvements now or hereafter situated or constructed thereon, and the easements, rights, privileges and obligations appurtenant and appertaining thereto, excluding any public utility installations located thereon or thereunder, is known and described as **REGATTA LANDING, A CONDOMINIUM** (the “Condominium”), on the following terms:

ARTICLE 1

DEFINITIONS

The following terms as used in this Condominium Declaration and the exhibits hereto shall have the following meanings, unless the context which they are used requires a different meaning:

“Access Control System” shall mean a surveillance and/or gate system, if any, intended to control access to the Condominium. THE PROVISION OF AN ACCESS CONTROL SYSTEM SHALL IN NO MANNER CONSTITUTE A WARRANTY OR REPRESENTATION AS TO THE PROVISION OF OR LEVEL OF SECURITY WITHIN THE CONDOMINIUM. DEVELOPER, MASTER ASSOCIATION, AND CONDOMINIUM ASSOCIATION DO NOT GUARANTEE OR WARRANT, EXPRESSLY OR BY IMPLICATION, THE MERCHANTABILITY OR FITNESS FOR USE OF ANY ACCESS CONTROL SYSTEM, OR THAT ANY SUCH SYSTEM WILL PREVENT INTRUSIONS OR OTHER OCCURRENCES. EACH OWNER AND OCCUPANT ACKNOWLEDGES THAT DEVELOPER, MASTER ASSOCIATION AND CONDOMINIUM ASSOCIATION, THEIR EMPLOYEES, AGENTS, MANAGERS, DIRECTORS, AND OFFICERS, ARE NOT INSURERS OF OWNERS OR UNITS, OR THE PERSONAL PROPERTY LOCATED WITHIN THE CONDOMINIUM. DEVELOPER, MASTER ASSOCIATION, AND CONDOMINIUM ASSOCIATION WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES, OR DEATHS RESULTING FROM ANY SUCH EVENTS.

“ACOE” means the United States Army Corp of Engineers.

“ACOE Permit” means that certain ACOE permit number SAJ-2007-02042(IP-CJW), as amended from time to time.

“Additional Land” means the land described on Exhibit F which may be submitted to the condominium form of ownership pursuant to an amendment to this Condominium Declaration.

“Annexation Agreement” means that certain Agreement Regarding Annexation and Supplemental Declaration for Windstar, recorded June 14, 2013 in Official Records Book 4933, Page 1493, of the Public Records of Collier County, Florida, as amended from time to time.

“Architectural Control Board” means the committee appointed pursuant to the Master Declaration.

“Articles” means the Articles of Incorporation of the Condominium Association, as amended from time to time.

“Assessment” means a share of the funds required for the payment of Common Expenses which from time to time are assessed against an Owner, the payment of which is secured by a lien upon the Condominium Unit, as described in Section 8.15.

“Board of Directors” means the Board of Directors of the Condominium Association.

“Buildings” means the Initial Building and, if and to the extent submitted to this Condominium by an amendment to this Condominium Declaration, the Additional Buildings.

“Bylaws” means the Bylaws of the Condominium Association, as amended from time to time.

“Club” shall mean Windstar Club, Inc., a Florida not-for-profit corporation, its successors and assigns, which owns the “Windstar Club”.

“Club Facilities” is defined in Section 3.8 hereof.

“Common Elements” means those portions of the Condominium Property so designated in Section 3.2 hereof.

“Common Expenses” means all expenses incurred by the Condominium Association for the Condominium, including charges for water and sewer or other utility services serving the Condominium for which the individual Units are not separately assessed.

“Common Surplus” means the excess of all receipts of the Condominium Association, including, but not limited to, assessments, rents, profits and revenues on account of the Common Elements, over the amount of Common Expenses.

“Condominium” is defined in the introductory paragraph of this Condominium Declaration.

“Condominium Association” means Regatta Landing Condominium Association, Inc., a Florida corporation not for profit, the entity responsible for the operation and administration of the Condominium.

“Condominium Act” means the Condominium Act of the State of Florida (Chapter 718, Florida Statutes) as it exists on the date that this Condominium Declaration is recorded in the Public Records of the County.

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

“Condominium Documents” means this Condominium Declaration, the Articles, the Bylaws, the Rules and Regulations, and any other documents or instruments governing the Condominium Property or administered by the Condominium Association, as they may be amended from time to time.

“Condominium Property” means the lands, leaseholds and personal property that are subjected to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection therewith, including the Initial Phase and, if and when constructed, the Proposed Phases, but excluding any public utility installations located thereon or thereunder.

“Condominium Unit(s)” or “Unit(s)” means the Initial Units and, if and to the extent submitted to this Condominium by an amendment to this Condominium Declaration, the Additional Units.

“Conservation Areas” mean those areas within the Condominium Property that are designated as conservation areas by the SFWMD or other governmental entity, and which are required to be preserved in their natural or permitted state and which cannot be altered or modified from their natural or permitted condition, with the exception of exotic or nuisance vegetation removal, or restoration in accordance with the restoration plan included in the Conservation Easement.

“Conservation Easement” shall mean any conservation easement encumbering a portion of the Condominium Property that is recorded in the Public Records of the County.

“County” means Collier County, Florida, a political subdivision of the State of Florida.

“Developer” means STANDARD PACIFIC OF FLORIDA, a Florida general partnership, and its successors and such of its assigns as to which the rights of Developer hereunder are specifically assigned. Developer may assign all or a portion of its rights hereunder.

“Division” means the Division of Florida Condominiums, Timeshares and Mobile Homes of the Department of Business and Professional Regulation, State of Florida, or its successor.

“Dock Slip Association” is defined in Section 3.6 hereof. THE DOCK SLIP ASSOCIATION, WILL BE SEPARATE FROM THE CONDOMINIUM ASSOCIATION. OWNERSHIP OF A UNIT WILL NOT GIVE AN OWNER MEMBERSHIP IN THE DOCK SLIP ASSOCIATION.

“Dock Slips” is defined in Section 3.6 hereof. THE DOCK SLIPS WILL NOT BE PART OF THE CONDOMINIUM. OWNERSHIP OF A UNIT WILL NOT GIVE AN OWNER ANY OWNERSHIP OF, OR RIGHT TO USE, A DOCK SLIP.

“Herein” and “hereof” means the whole of this Condominium Declaration, rather than just the sentence, paragraph or section in which used.

“Include,” “includes,” and “including” means including as an example, without limiting the generality of the matter(s) to be included.

“Institutional First Mortgagee” means a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension fund, agency of the United States Government, mortgage banker, any other lender generally recognized as an institutional- type lender, or Developer which holds a first mortgage on a Condominium Unit or Condominium Units.

“Kayak Launch” is defined in Section 3.5 hereof.

“Keewaydin Queen” is defined in Section 3.7 hereof.

“Land” means the land described on Exhibit A hereto which is submitted to the condominium form of ownership pursuant to this Condominium Declaration.

“Limited Common Elements” means those Common Elements which are reserved by this Condominium Declaration, or assigned or granted separately herefrom pursuant to the terms hereof, for the exclusive use of a certain Condominium Unit(s) to the exclusion of other Condominium Units.

“Listed Parties” is defined in Section 15.6 hereof.

“Master Association” means Windstar on Naples Bay Master Association, Inc., a Florida corporation not for profit.

“Master Declaration” means that certain Second Amended and Restated Master Declaration of Covenants, Conditions & Restrictions for Windstar, which was recorded at Official Records Book 4512, Page 2575 et seq., Public Records of the County, as amended from time to time.

“Member” means all those Owners who are Members of the Condominium Association as provided in Article 5 hereof.

“Member’s Permittee” means any individual Owner and his or her family or, as applicable, the following person(s) and such person’s family (to the extent that such person and such person’s family reside together in the Condominium Unit): (i) an officer, director, stockholder or employee of a corporate owner, (ii) a partner of a partnership owner, (iii) a beneficiary of an ownership in trust, or (iv) occupants named or described in a lease or sublease, but only if approved in accordance with this Condominium Declaration.

“Northwest Gate” is defined in Section 15.9 hereof.

“Owner” or “Unit Owner” means the record owner, whether one or more persons or entities, of the fee simple title to any Condominium Unit situated upon the Condominium Property, including Developer.

“Parking Spaces” is defined in Section 3.4 hereof.

“Person” means any individual, partnership, joint venture, firm, corporation, association, trust or other enterprise, or any government or political subdivision or agency, department or instrumentality thereof.

“Phases” means the Initial Phase and, if and to the extent submitted to this Condominium by an amendment to this Condominium Declaration, the Additional Phases.

“Plat” means the Plat of Naples Groves and Truck Co.’s Little Farms No. 2, as recorded in Plat Book 1, Page 27, of the Public Records of the County.

“Rules and Regulations” means the rules and regulations of the Condominium Association, as amended.

“SFWMD” means the South Florida Water Management District.

“SFWMD Permit” means SFWMD Permit No. 11-03032-P, as modified by the December 10, 2014 extension, and as amended from time to time.

“Southeast Gate” is defined in Section 15.9 hereof.

“Special Assessments” is defined in Section 8.5 hereof.

“Surface Water Management System” means all lakes, wetlands, canals and drainage facilities comprising the surface water management system located within the Condominium Property, as generally described in the SFWMD Permit.

“Windstar on Naples Bay” means the residential community generally to be known and referred to as “Windstar on Naples Bay” which shall include the Condominium Property and the other property subject to the Master Declaration.

ARTICLE 2.

DESCRIPTION OF THE CONDOMINIUM PROPERTY

Section 2.1. General Description of the Condominium Property. The Condominium Property is part of Windstar on Naples Bay. With respect to the rights, duties and obligations of Owners to the Master Association, all persons are referred to Article 17 hereof. The Condominium has been developed in Phases and added to the Condominium Property by amendments to this Declaration. Section 2.2. Survey and Graphic Description of the Condominium Property. The legal description of the Condominium Property is set forth on Exhibit A to the original Declaration. The graphic description of the Condominium Property is set forth on Exhibit B of the original Declaration. All exhibits to the original Declaration, including the Survey and Graphic Description and legal descriptions are hereby incorporated by reference as though fully set forth in this Amended and Restated Declaration.

ARTICLE 3.

DEFINITION OF CONDOMINIUM UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

Section 3.1. Condominium Units. The Buildings and the Condominium Units are each identified by a separate number. The configuration of the Units is included as an exhibit to the original Declaration, as amended. The boundaries of each Condominium Unit are as follows:

(a) Upper and Lower Boundaries. The upper, and lower boundaries of each Condominium Unit shall be the following boundaries extended to an intersection with the perimetrical boundaries:

(i) Upper Boundaries. The horizontal plane of the lowest surface of the unfinished ceiling slab of the highest floor of the Condominium Unit.

(ii) Lower Boundaries. The horizontal plane of the highest surface of the unfinished floor slab of the Condominium Unit

(b) Perimetrical Boundaries. The perimetrical boundaries of the Condominium Units shall be the vertical planes formed by the unfinished interior surfaces of the boundary walls as depicted on Exhibits B and G hereto, extended to an intersection with each other and with the upper and lower boundaries as described in subparagraph (a) above.

(c) Certain Items Exclusively Serving a Condominium Unit. In addition to the area within the perimetrical and upper and lower boundaries described above, each Condominium Unit shall be deemed to include within its boundaries the air conditioning equipment wherever located exclusively serving the Condominium Unit, and all doors, windows, glass, screening, and any other materials covering openings in the exterior of the Condominium Unit, which serve the Condominium Unit exclusively.

(d) Elevators. If installed within a Unit, an elevator shall be deemed to be part of such Unit, and the Unit Owner shall be solely responsible for the maintenance, repair, alteration, operation, replacement and insurance for such elevator (including all mechanical and other equipment serving such elevator). In no event shall the Condominium Association have any responsibility or liability for the maintenance, repair, alteration, operation, replacement, or insurance of such elevator (including all mechanical and other equipment serving such elevator). Except as originally installed by the Developer, no Owner may install an elevator within their Unit except in as may be approved in writing by the Condominium Association.

Section 3.2. Common Elements. The term "Common Elements" includes all of the real property of the Condominium not within the Condominium Units including, without limitation: (1) easements through and under the Condominium Property, including the Condominium Units, for conduits, pipes, ducts, vents, plumbing, wiring and other facilities, equipment and/or fixtures for the furnishing of utility services, drainage, heating and cooling and/or ventilation to Condominium Units and Common Elements; (2) easements of support in every portion of the Condominium Property, including the Condominium Units, which contribute to the support of other Condominium Units and/or Common Elements; (3) property and installations for the

furnishing of utility services to more than one Condominium Unit or to the Common Elements or to a Condominium Unit other than the Condominium Unit containing the installation, specifically excluding, however, any utility main lines, distribution lines, force mains or collection and meters owned and maintained by the utility company servicing the Condominium; and (4) the Land. The Common Elements include all Limited Common Elements defined in Article 3.

Section 3.3. Limited Common Elements. The term “Limited Common Elements” includes any and all Common Elements which are reserved herein, or assigned, or granted separately herefrom, for the use of a certain Condominium Unit or Condominium Units to the exclusion of other Condominium Units, including, without limitation, the porch, balcony, courtyard, terrace and/or entryway (provided that, in no event will any balcony, courtyard, terrace and/or entryway be enclosed by a screen or improved in any other manner without the prior written consent of the Condominium Association), which is attached to and/or exclusively serves a Condominium Unit, if any.

Section 3.4. Parking. The parking for each Unit will be provided by an enclosed garage that is part of the particular Unit. Owners will be responsible for the maintenance, repair, and replacement of the garage door and garage door opening mechanism for their particular Unit. In addition, the Condominium will contain surface parking spaces (the “Parking Spaces”), which will be part of the Common Elements of the Condominium. The maintenance, repair, replacement and insurance responsibility of these Parking Spaces shall be the sole responsibility of the Condominium Association, the cost of which shall be a Common Expense. The Condominium Association shall have the right to promulgate rules and regulations with respect to such Parking Spaces, including but not limited to prohibiting overnight parking, limiting certain spaces to loading and unloading, and limiting the use of some or all of the Parking Spaces to certain purposes as determined by the Condominium Association. Section 3.5. Kayak Launch. A kayak launch has been constructed providing access into Haldeman Creek (the “Kayak Launch”). Unit Owners shall be entitled to use the Kayak Launch subject to reasonable rules and regulations adopted by the Board and by the Regatta Landing Dock Slip Association, Inc.

Section 3.6. Dock Slips. Developer has constructed certain boat docking slips (the “Dock Slips”) within a portion of the property. Such Dock Slips are not part of the Condominium but rather will be separate from the Condominium and operated by a separate association (the “Dock Slip Association”). Membership in the Dock Slip Association will be separate from membership in the Condominium Association and membership in the Condominium Association will be separate from membership in the Dock Slip Association. No Owner or occupant of a Condominium Unit gains any ownership of, or right to use, or access to (other than in direct connection with the use of the Kayak Launch), the Dock Slips solely by virtue of acquiring a Unit or by membership in the Condominium Association. Section 3.7. Club Facilities. The Club owns and operates certain Club facilities (collectively, the “Club Facilities”) within Windstar on Naples Bay, which are separate from the Condominium. Membership within the Club and the right to use the Club Facilities is not included with ownership of a Unit or membership in the Condominium Association. Membership in the Club is not mandatory and is not required as a condition for the purchase of a Unit.

ARTICLE 4.

APPURTENANCES TO CONDOMINIUM UNITS

There shall be appurtenant, and pass with title, to each Condominium Unit the rights, shares, and interests provided by the Condominium Act which shall be deemed to include, without limitation, the following:

Section 4.1. Undivided Share in the Common Elements and Common Surplus. An undivided share in the Common Elements and in the Common Surplus, which share in the Common Elements cannot be conveyed or encumbered except together with the Condominium Unit and which share is undivided and shall not be subject to an action for partition. The undivided share in the Common Elements and the Common Surplus of the Condominium appurtenant to each Condominium Unit is that proportion of the total set forth on Exhibit C hereto. As reflected thereon, in determining the fractional ownership interest of a Condominium Unit, the numerator is always the number one and the denominator represents the total number of Condominium Units which have been submitted to the Condominium at such time. Accordingly, an Owner's percentage interest will decrease if, when and to the extent the Proposed Units are added to the Condominium.

Section 4.2. Limited Common Elements. The right to use exclusively, or in common with certain other Condominium Units where so specified, those portions of the Common Elements physically adjoining or immediately adjacent to a Condominium Unit or Condominium Units and designated and/or reserved herein and/or granted elsewhere to such Condominium Unit or Condominium Units as Limited Common Elements.

Section 4.3. Air Space. An exclusive easement for the use of the air space occupied by the Condominium Unit as it exists at any particular time and as it may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is permanently vacated from time to time.

Section 4.4. Right to Condominium Association Membership. The right to membership in the Condominium Association, upon the terms and conditions set forth in Article 5 hereof.

Section 4.5. Ingress and Egress. Each Owner shall have an unrestricted and perpetual right to ingress and egress, which right shall pass with the Condominium Unit as transfers of ownership of the Condominium Unit occur.

ARTICLE 5

CONDOMINIUM ASSOCIATION

Section 5.1. Functions and Duties. The Condominium Association shall be responsible for the maintenance, management and operation of the Condominium. Copies of the Articles and Bylaws of the Condominium Association are annexed hereto and made a part hereof as Exhibit D and Exhibit E, respectively, hereto.

Section 5.2. Condominium Association Membership. The Owner of each Condominium Unit shall become a member of the Condominium Association and Master Association

automatically upon and simultaneously with receipt of a deed or other conveyance of record evidencing the transfer of legal title to a Condominium Unit from Developer, or in the case of a conveyance by a grantee or remote grantee of Developer, upon receipt of a deed or other conveyance of record evidencing the transfer of legal title to a Condominium Unit in accordance with this Condominium Declaration and the Master Declaration. Membership in the Condominium Association may not be transferred separate and apart from a conveyance of the Condominium Unit. Membership in the Condominium Association shall terminate upon conveyance or transfer of the Condominium Unit, whether voluntary or involuntary.

Section 5.3. Voting Rights. There shall be one vote appurtenant to each Condominium Unit in all matters on which the members are entitled to vote. If an Owner owns more than one (1) Condominium Unit, the Owner shall be entitled to one (1) vote for each Condominium Unit owned. If a Condominium Unit is owned by more than one (1) person, the manner in which the vote shall be cast shall be determined in the manner provided in the Bylaws.

Section 5.4. Powers of The Condominium Association. The Condominium Association shall have all of the powers provided by the Condominium Act and other applicable law as well as all powers indicated or incidental to those contained in the Condominium Documents. In addition, the Condominium Association shall have the power to enforce this Condominium Declaration and shall have all of the powers granted to it by this Condominium Declaration. The Condominium Association shall have the power from time to time to enter into agreements with a manager or management company, and to the extent permitted by law, to delegate maintenance, management, and operational duties and obligations to such manager or management company.

Section 5.5. Right of Access. the Condominium Association shall have the irrevocable right of access to each Condominium Unit during reasonable hours when necessary for maintenance, repair or replacement of any Common Elements or any portion of a Condominium Unit to be maintained by the Condominium Association pursuant to and as contemplated by this Condominium Declaration and as necessary to prevent damage to the Common Elements or to Condominium Unit(s). The Condominium Association shall have the irrevocable right of access to each Condominium Unit at all times for making emergency repairs necessary to prevent damage to the Common Elements or to another Condominium Unit(s).

ARTICLE 6

USE OF THE CONDOMINIUM PROPERTY

Section 6.1. Member's Right to Use the Common Elements. Subject to the terms and provisions of the Condominium Documents, the Plat and any easement, restriction, reservation or limitation of record, the Members and, to the extent permitted in the Rules and Regulations, Member's Permittee(s) shall have the non-exclusive right to use, in common with one another, the Common Elements for all proper and reasonable purposes and in such a manner so as to not hinder or encroach upon the lawful rights of other to use same.

ARTICLE 7.

EASEMENTS

Section 7.1. Service and Utility Easements. The Condominium Association has (and has the continuing right to) granted to governmental or quasi-governmental authorities, water and sewer companies, electric utility companies, telephone companies, cable companies, ambulance or emergency companies, mail carriers and/or their respective successors and assigns, easements over, upon and under the Condominium Property for the installation, operation, maintenance, repair, replacement, alteration and expansion of services and utilities, including, without limitation, any easements necessary for the construction, installation, maintenance, repair, expansion and replacement of water lines, utility facilities, sanitary sewers, storm drains, and electric and telephone lines, cables and conduits. Each Member and/or Owner covenants to do nothing with or in his Condominium Unit which interferes with or impairs the governmental or quasi-governmental authority, service provider or utility company from using these easements.

Section 7.2. Public Easements. Fire, police, health and sanitation, park maintenance and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Condominium Property in the performance of their respective duties.

Section 7.3. Encroachments Easement. There shall exist an exclusive easement for any unintentional and non-negligent encroachment (together with the maintenance, repair and replacement thereof): (i) of any portion of the Common Elements upon any Condominium Unit, (ii) of any Condominium Unit upon any other Condominium Unit or upon the Common Elements and/or (iii) that hereafter occurs as a result of (A) settling or shifting of any improvements, (B) any addition, alteration or repair to the Common Elements made by or with the consent of the Condominium Association, and (C) any repair or restoration of any improvements (or any portion thereof) or of any Condominium Units after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any such improvement, Condominium Units and/or Common Elements.

Section 7.4. Access to Dock Slips. Members of the Dock Slip Association and their invitees shall access and exit the Dock Slips from the parking area adjacent to the pool only. Members of the Dock Slip Association and their invitees may not access or exit the Dock Slips by traversing over Unit driveways, or between, behind or along the sides of Units (specifically including buildings 8, 9 & 10 other than the residents of those buildings) to access individual gates along the dock. Section 7.5. Additional Easements. The Condominium Association may do the following: (1) grant and declare additional easements over, upon, under and/or across the Condominium Property in favor of The Members and/or Owners and their guests and invitees, or in favor of any other Person, public or quasi-public authority or utility company, or (ii) modify, relocate, abandon or terminate existing easements within or outside of the Condominium Property in favor of the Condominium Association or the Members and/or Owners and their guests and invitees or in favor of any Person, public or quasi-public authority, or utility company, as the Condominium Association, as applicable, may deem desirable for the proper operation and maintenance of the Condominium Property, or any portion thereof, or for the health, safety or welfare of the Members and/or Owners, or for any other reason or purpose. So long as such additional easements, or the modification, relocation or abandonment of existing easements will not unreasonably and adversely interfere with the use of Condominium Units for dwelling purposes, no joinder of any

Members and/or Owner or any mortgagee of any Condominium Unit shall be required or, if same would unreasonably and adversely interfere with the use of any Condominium Unit for dwelling purposes, only the joinder of the Owners and Institutional First Mortgagees of the Condominium Unit(s) so affected shall be required. To the extent required, all Owners hereby irrevocably appoint the Condominium Association as their attorney-in-fact for the foregoing purposes.

ARTICLE 8.

ASSESSMENTS

The Condominium Association has been granted the right to make, levy and collect Assessments against all Owners and their Condominium Units to provide the funds necessary for proper operation and management of the Condominium, including, but not limited to, the operation, maintenance, repair or replacement of the Common Elements. The following provisions shall govern the making, levying and collecting of Assessments and the payment of the costs and expenses of operating and managing the Condominium.

Section 8.1. General Assessments. Except as provided elsewhere herein, all Owners of Condominium Units now or hereafter located within the Condominium Property, hereby covenant and agree, and each Owner of any Condominium Unit by acceptance of a deed therefor or other conveyance thereof, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree, to pay General Assessments to the Condominium Association for the operation of the Condominium Association and for the maintenance, management, operation and insurance of the Common Elements. It is intended that any and all real estate taxes and assessments assessed against the Common Elements shall be proportionally assessed against and payable as part of the taxes of the applicable Condominium Units within the Condominium Property. However, in the event that, notwithstanding the foregoing, any such taxes are assessed directly against the Common Elements, the Condominium Association shall be responsible for the payment (subject to protest or appeal before or after payment) of same, including taxes on any improvements and any personal property located thereon, and will assess the Owner of the Condominium Units for their applicable share thereof. General Assessments by the Condominium Association against each Owner and his Condominium Unit shall be the percentage share of the total General Assessments to be made against all Owners and their Condominium Units as is set forth on Exhibit C hereto. Should the Condominium Association become the Owner of any Condominium Unit(s), the General Assessments due and payable with respect to such Condominium Unit(s) shall be paid by the Owners of all Condominium Units which are not owned by the Condominium Association, based upon their proportionate interests in the Common Elements exclusive of the interests therein appurtenant to any Condominium Unit(s) owned by the Condominium Association. The Dock Slips will not subject to General Assessments, Special Assessments, or Capital Contribution Assessments of the Condominium Association, as the Dock Slips will not be part of the Condominium. However, in the event that the Dock Slip Association allows a non Unit Owner to purchase a Dock Slip, the Condominium Association may enter into a cost sharing agreement with the Dock Slip Association, whereby the Dock Slip Association will pay the Condominium Association for the right of its non Unit Owner members to use certain facilities within the Condominium, including the Parking Spaces and other recreational facilities.

Section 8.2. Master Assessments. It is intended that the Condominium Association will be the collection agent for assessments payable to the Master Association pursuant to the Master Declaration. Accordingly, assessments payable to the Master Association will be included in the annual budget of the Condominium Association so long as the Condominium Association is the collection agent for such assessments to the Master Association.

Section 8.3. Club Dues and Fees. All Club dues and fees are separate from Assessments payable to the Condominium Association. Owners having a Club membership shall make payment directly to the Club for any dues and fees related to such Club membership.

Section 8.4. Annual Budget. The Board of Directors shall, in accordance with the Bylaws and the Condominium Act, establish annual budgets in advance for each fiscal year, which shall correspond to the calendar year, which budgets shall estimate all expenses for the forthcoming year required for the proper operation, management and maintenance of the Condominium, including, to the extent required by law or when deemed necessary or advisable by the Board of Directors, a reasonable allowance for reserves, and shall estimate all income to be collected during the year. Upon adoption of each such annual budget by the Board of Directors, copies thereof shall be delivered to each Owner, and the General Assessment for the year shall be based upon such budget; provided that failure to deliver a copy of the budget to an Owner shall not affect the liability of such Owner for such General Assessment. Should the Board of Directors at any time and from time to time determine, in the sole discretion of the Board of Directors, that the General Assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Condominium or in the event of emergencies, the Board of Directors shall have the authority, subject to any limitations described in the Condominium Act, to levy such additional General Assessments as it shall deem necessary. If such additional General Assessments are levied, written notice describing the specific purpose or purposes of the General Assessment will be sent or delivered to each Owner as required by the Condominium Act.

Section 8.5. Special Assessments. In addition to the General Assessments, the Condominium Association (through the Board of Directors) shall have the right, subject to any limitations described in the Condominium Act, to levy Special Assessments against Owner(s) for the payment of Common Expenses not contemplated by the annual budget. Any such Special Assessment shall be subject to all of the applicable provisions of the Condominium Act and this Article, including, without limitation, lien filing and foreclosure procedures and late charges and interest. Any Special Assessment levied hereunder shall be due within the time specified by the Board of Directors in the action imposing such Assessment.

Section 8.6. Capital Improvement Assessments. In addition to the General Assessments and Special Assessments, the Condominium Association (through the Board of Directors) shall have the right, subject to any limitations described in the Condominium Act, to levy Capital Improvement Assessments to generate funds which, in the aggregate, exceed the lesser of \$50,000.00 or 10% of the total amount of the current operating budget of the Condominium Association in any one fiscal year which are necessary for the addition of capital improvements (as distinguished from repairs and maintenance, including repairs and replacement per Article 9 hereof) relating to the Common Elements and which have not previously been collected as reserves or are not otherwise available to the Condominium Association (other than by borrowing). Capital Improvement Assessments may only be levied upon approval of a majority of the Board of

Directors and upon approval by 55% favorable vote of the Members of the Condominium Association. The costs of any of the aforesaid work which are less than the above-specified threshold amount shall be collected as General Assessments or Special Assessments upon approval of a majority of the Board of Directors.

Section 8.7. Reserve Funds. Unless waived in accordance with the Condominium Act, the Board of Directors, in establishing each annual budget, shall include therein sums to be collected and maintained as reserves for capital expenditures and deferred maintenance for Common Elements and personal property held for the joint use and benefit of the Owners of all Condominium Units, as required by Section 718.112, Florida Statutes, as the same may be in effect from time to time.

Section 8.8. Contingency Funds. To the extent permitted under the Condominium Act, in addition to reserves established pursuant to Section 8.7 hereof, the Board of Directors, when establishing each annual budget may, when deemed necessary or desirable, include therein a sum or sums to be collected and maintained as contingency funds to provide a measure of financial stability during periods of special stress when such sums may be used to meet unforeseen expenditures and deficiencies from time to time existing as a result of delinquent payment of Assessments by Owners of Condominium Units, as a result of emergencies or for other reason placing financial stress upon the Condominium Association. The annual amount allocated to such contingency funds and collected therefor, except as required by law, shall not exceed twenty-five percent (25%) of the current annual Assessment levied against the Owners of all Condominium Units, and shall be no less than two months of estimated common charges for each unit. Upon accrual in the contingency funds of an amount equal to twenty-five percent (25%) of the current annual Assessment, unless and except to the extent required by law, no further payments shall be collected from the Owners of Condominium Units as a contribution to such contingency funds, unless' it shall be reduced below the twenty-five percent (25%) level, in which event, the annual Assessment against each Owner and/or Condominium Unit may be increased to restore the contingency funds to an amount which will equal twenty-five percent (25%) of the current annual amount of said Assessment. The Owners may call a special meeting of the Condominium Association or the Owners may raise issues pertaining to the contingency funds at a general meeting of the Condominium Association as provided for in the Bylaws. Any amount collected shall not be deemed an advance payment of any other Assessments due or forthcoming. Notwithstanding anything to the contrary herein, Upon the affirmative vote of the Board and Owners of a majority of the Condominium Units, the Condominium Association may elect to reduce the levels of the contingency funds above those stated above.

Section 8.9. Time for Payment. The General Assessment levied against each Owner and his Condominium Unit shall be payable in advance in quarterly installments on the first day of each quarter [and if not paid prior to the 10th day of the quarter, late fees and all other remedies shall apply pursuant to Section 8.11]. The due date of any Special Assessment or Capital Improvement Assessment shall be fixed in the resolution authorizing such Assessment. The Condominium Association shall have the right to delegate the responsibility for collection of the Assessments to the Master Association.

Section 8.10. Use of Condominium Association Funds. All monies collected by the Condominium Association shall be treated as the separate property of the Condominium

Association. Such monies may be applied by the Condominium Association to the payment of any expense of operating and managing the Condominium or the proper undertaking of all acts and duties imposed upon the Condominium Association by virtue of this Condominium Declaration, the Articles and Bylaws. All the monies for Assessments paid to the Condominium Association by any Owner may be commingled with monies paid to the Condominium Association by other Owners; provided, however that in no event may Reserve Funds be commingled with other funds collected by the Condominium Association, unless such funds are combined for investment purposes. All funds and other assets of the Condominium Association, and any increments thereto or profits derived therefrom or from the leasing or use of Common Elements, including, without limitation, Common Surplus, shall be held for the benefit of the Members of the Condominium Association. No Member of the Condominium Association shall have the right to assign, hypothecate, pledge or in any manner transfer or encumber his membership interest therein, except as an appurtenance to his Condominium Unit.

Section 8.11. Delinquency or Default. The payment of any Assessment or installment thereof due to the Condominium Association shall be in default if not paid to the Condominium Association on or before the date due. When in default, the delinquent Assessments or installments thereof shall bear interest from the date due at the highest rate permitted by law until the same, and all interest due thereon, has been paid in full. In addition, when the payment of Assessments is in default, the Condominium Association shall have the right to accelerate future General Assessments, which would not otherwise be due and payable, for the remainder of the budget year in which, and which will be due and payable on the date upon which, a claim of lien is filed. Also, the Condominium Association may charge an administrative late fee in an amount not to exceed the greater of \$25 or 5% of each delinquent installment for which the payment is late. Any payment received by the Condominium Association shall be applied first to any accrued interest, then to administrative late fee, then to any costs and reasonable attorneys' fees incurred in collection, and then to the delinquent Assessment. If the Condominium Unit is occupied by a tenant and the Owner is delinquent in payment any Monetary obligation due the Condominium Association, the Condominium Association may make a written demand that the tenant pay the future monetary obligations related to the Condominium Unit to the Condominium Association, and the tenant must make such payment. The tenant must pay the monetary obligations to the Condominium Association until the Condominium Association releases the tenant or the tenant discontinues tenancy in the unit. The Condominium Association must mail written notice to the Owner of the Unit the Condominium Association's demand that the tenant make payments to the Condominium Association. The Condominium Association shall, upon request, provide the tenant with written receipts for payments made. A tenant who acts in good faith in response to a written demand from the Condominium Association is immune from any claim from the Owner. If the tenant prepaid rent to the Owner before receiving the demand from the Condominium Association and provides written evidence of paying the rent to the Condominium Association within fourteen (14) days after receiving the demand, the tenant shall receive credit for the prepaid rent for the applicable period and must make any subsequent rental payments to the Condominium Association to be credited against the monetary obligations of the Owner to the Condominium Association. The tenant is not liable for increases in the amount of the monetary obligations due unless the tenant was notified in writing of the increase at least ten (10) days before the date the rent is due. The liability of the tenant may not exceed the amount due from the tenant to the Owner. The Owner shall provide the tenant a credit against rents due to the Owner in the amount of monies paid to the Condominium Association under this section. The Association may issue notices under Section

83.56, Florida Statutes, and may sue for eviction under Sections 83.59-83.625, Florida Statutes, as if the Condominium Association were a landlord under part II of Chapter 83 of the Florida Statutes if the tenant fails to pay a required payment to the Condominium Association. However, the Condominium Association is not otherwise considered a landlord under Chapter 83, Florida Statutes, and specifically has no duties under S. 83.51, Florida Statutes. The tenant does not, by virtue of payment of monetary obligations to the Condominium Association, have any of the rights of an Owner to vote in any election or to examine the books and records of the Condominium Association.

Section 8.12. Personal Liability of Owner. Except as set forth in Section 8.16, the Owner(s) of each Condominium Unit shall be personally liable, jointly and severally, as the case may be, to the Condominium Association for the payment of all Assessments and for all costs of collecting the Assessments and interest thereon, including reasonable attorneys' and legal assistants' fees (at all pre-trial, trial, appellate and post-judgment proceedings), whether suit be brought or not, levied or otherwise coming due while such Person(s) own(s) a Condominium Unit.

Section 8.13. Liability Not Subject to Waiver. No owner of a Condominium Unit may exempt himself from liability for any assessment levied against such owner and his Condominium Unit by waiver of the use or enjoyment of any of the Common Elements, abandonment of the Condominium Unit, or in any other manner.

Section 8.14. Lien for Assessments. The Condominium Association is hereby granted a lien upon each Condominium Unit and its appurtenant undivided interest in the Common Elements, which lien shall and does, to the extent permitted by the Condominium Act, secure the monies due for all: (i) Assessments levied against the Condominium Unit and the Owner(s) thereof by the Condominium Association, (ii) interest, if any, which may become due on delinquent Assessments owing to the Condominium Association, and (iii) costs and expenses, including reasonable attorneys' and legal assistants' fees (at all pre-trial, trial, appellate and post-judgment proceedings), which may be incurred by the Condominium Association incident to the collection of Assessments and in enforcing its lien upon the Condominium Unit and its appurtenances. The lien granted to the Condominium Association may be established and foreclosed in the Circuit Court in and for the County. If the Condominium Unit is rented or leased during the pendency of the foreclosure action, the Condominium Association shall be entitled to the appointment of a receiver to collect such rent. To the extent permitted by the Condominium Act, the lien of the Condominium Association shall also secure all advances for taxes, and payments on account of superior mortgages, liens or encumbrances made by the Condominium Association to preserve and protect its lien, together with interest at the highest rate permitted by law on all such advances made for such purpose.

Section 8.15. Recording and Priority of Lien. The lien of the Condominium Association shall be effective from and relate back to the last to occur of (i) the recording in the Public Records of the County of this Condominium Declaration or (ii) the amendment to this Condominium Declaration creating the Proposed Phase in which the applicable Condominium Unit is located. The Condominium Association shall file a claim of lien stating the Condominium Unit encumbered thereby, the name of the record Owner thereof, the name and address of the Condominium Association, the amount due to the Condominium Association, and the date such amount was due. The claim of lien shall secure all Assessments, plus interest, costs, attorneys' and

legal assistants' fees, advances to pay taxes and prior encumbrances and interest thereon, which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a final judgment of foreclosure. Such claim of lien shall be signed and verified by an officer or agent of the Condominium Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record.

Section 8.16. Effect of Foreclosure or Judicial Sale. The liability of an Institutional First Mortgagee or its successor or assignee who acquires title to a Condominium Unit by foreclosure or deed in lieu thereof, shall be limited to the lesser of (a) the unpaid Common Expenses and General Assessments which accrued or came due with respect to such Condominium Unit during the twelve (12) months immediately preceding acquisition of such title for which payment in full has not been received by the Condominium Association, or (b) one percent (1%) of the original mortgage debt secured by such Condominium Unit; provided that, except as provided by applicable law, the Condominium Association was joined as a defendant in the foreclosure action. In the event of the acquisition of title to a Condominium Unit by an Institutional First Mortgagee or its successor or assignee who acquires title to a Condominium Unit by foreclosure or deed in lieu thereof, any Assessment(s) as to which the party so acquiring title shall not be liable shall be absorbed and paid by all Owners of all Condominium Units including the Owner acquiring title through foreclosure or judicial sale as a part of the Common Expense, although nothing herein contained shall be construed as releasing the party personally liable for such delinquent Assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

Section 8.17. No Election of Remedies. Institution of a suit at law to attempt to effect collection of the payment of any delinquent or accelerated Assessment shall not be deemed to be an election by the Condominium Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of suit at law to attempt to effect collection of any sum then remaining owing to it.

ARTICLE 9.

MAINTENANCE, REPAIRS AND REPLACEMENTS

Section 9.1. Common Elements. It shall be the obligation of the Condominium Association to maintain, repair, replace and keep in clean and orderly condition the Common Elements, including, without limitation, any improvements and/or structures (except public utilities) situated thereon. The Condominium Association may, in the discretion of the Board of Directors, assume additional maintenance responsibilities upon all or any portion of the Condominium Property or any property adjacent thereto. Such assumption will be governed by agreement with the applicable association, Owner and/or neighbor. Any and all costs incurred by the Condominium Association performing any such maintenance, repair or replacement work shall be paid by the Owners in the form of Assessments.

Section 9.2. Limited, Common Elements. The Owner(s) to which use of a Limited Common Element is limited shall be responsible for maintaining, repairing, replacing, and keeping

in clean and orderly condition, such Limited Common Elements. The Condominium Association may, in the discretion of the Board of Directors, assume the obligation to maintain, repair and replace such Limited Common Elements. Any and all costs incurred by the Condominium Association in performing any such maintenance, repair or replacement work shall be paid by the Owners to which use of a Limited Common Element is limited.

Section 9.3. Condominium Units. Each Owner shall maintain, repair and replace, at such Owner's expense, all portions of his Condominium Unit, including, but not limited to, the air conditioning equipment, electrical and plumbing fixtures, cabinets, carpets, other floor coverings, front doors, sliding doors, windows, equipment and appliances located therein or exclusively serving the same, in such a way as to not disturb any other Owners. The aforesaid maintenance shall include maintaining screens (including screen enclosures) and windows and doors (including sliding glass doors). The minimum (though not sole) standard for the foregoing shall be consistency with the general appearance of the Condominium Property as initially constructed and otherwise improved. Notwithstanding the foregoing, maintenance of the roofs, facias and soffits and the exterior maintenance and painting shall be undertaken by the Condominium Association. Any and all costs incurred by the Condominium Association in performing such work shall be paid by the Owners in the form of Assessments.

Section 9.4. Maintenance and Repair Necessitated by Negligence of Owners. An Owner shall be responsible for the expense of any maintenance, repair or replacement rendered necessary by the act, neglect or carelessness of such Owner or his guests, employees, agents, lessees or other invitees, but only to the extent that such expense is not met by proceeds of insurance carried by the Condominium Association.

Section 9.5. Right to Perform Work. If an Owner fails to perform promptly his responsibilities of repair, maintenance and replacement under Sections 9.2, 9.3 and 9.4, above, the Condominium Association shall be entitled to seek all remedies available at law, including, without limitation, the right to take legal action to require the Owner to perform the responsibilities. If the Condominium Association decides, in its sole discretion, to perform the work required on the Owner's behalf, any amount expended by the Condominium Association in connection therewith shall be charged to the Owner in the manner described in Article 22 hereof and shall include interest at the highest rate permitted by law or such other legal rate as may be determined by the Board of Directors from time to time from the date expended until paid in full and an additional administrative charge as established from time to time by the Board of Directors.

Section 9.6. Right of Entry. In addition to such other remedies as may be available to the Condominium Association under this Condominium Declaration and/or applicable law, in the event that an Owner fails to maintain his or her Condominium Unit as required under Sections 9.2, 9.3 and 9.4, and the Condominium Association decides, in its sole discretion, to perform the work required on the Owner's behalf as necessary to prevent damage to the Common Elements, the Owner's Condominium Unit or the other Condominium Units, the Condominium Association shall have the right to enter upon the Condominium Unit in question and perform such duties; provided, however, that such entry shall be during reasonable hours and with prior written notice.

Section 9.7. Surface Water Management System. Condominium Association shall be responsible for all obligations of the permittee (Developer) under the SFWMD Permit. The Surface

Water Management System for the Condominium is authorized pursuant to the SFWMD Permit. The Condominium Association is responsible for the operation and maintenance of the Surface Water Management System, as described in the SFWMD Permit. Wetland mitigation, maintenance and monitoring is required pursuant to the SFWMD Permit, and the Condominium Association shall be responsible to carry out this obligation. Pursuant to the SFWMD Permit, the Condominium Association is responsible for complying with the Urban Stormwater Management Program (attached to the SFWMD Permit). Such activities include landscaping and maintaining Common Elements to prevent contamination of surface waters, managing the application of fertilizers and the proper maintenance of plants and turf areas to minimize the ability of pests to successfully attack landscaping, sweeping and vacuuming the primary streets to remove dry weather accumulation of pollutants, especially particulate matter, before wash-off of these pollutants can occur during a storm event, and maintaining dry detention areas. The Condominium Association shall implement a maintenance program pursuant to the SFWMD Permit for the preserved and enhanced wetland areas on a regular basis and shall conduct such maintenance in perpetuity to ensure that the conservation areas are maintained free from Category 1 exotic vegetation (as defined by the Florida Exotic Pest Plan Counsel at the time of permit issuance) immediately following a maintenance activity. Additionally, the Condominium Association is responsible for assessing and collecting Assessments for the operation, maintenance, and if necessary, replacement of the Surface Water Management System. Copies of the SFWMD Permit and any future SFWMD Permit actions shall be maintained by the Condominium Association's registered agent for the Association's benefit. The SFWMD has the right to take enforcement action, including a civil action for an injunction and penalties against the Condominium Association to compel it to correct any outstanding problems with the Surface Water Management System or in mitigation or Conservation Areas under the responsibility or control of the Association, if any. Any amendment proposed to this Declaration that would affect the Surface Water Management System, Conservation Areas, or water management portions of the Common Elements will be submitted to the SFWMD for a determination of whether the amendment necessitates a modification of the SFWMD Permit. If a modification is necessary, the SFWMD shall so advise the permittee. The prior written approval of the SFWMD shall be required for any amendment to this Declaration affecting the Surface Water Management System, Conservation Areas, or water management portions of the Condominium Property. Developer shall be responsible for transferring the SFWMD Permit to the Condominium Association at its sole cost and expense.

Section 9.8. ACOE Permit Obligations. The Condominium Association shall be responsible for all obligations of the permittee (Developer) under the ACOE Permit. Such obligations may include, but are not limited to, wetland mitigation, monitoring and posting of required signage. Developer shall be responsible for transferring the ACOE Permit to the Condominium Association at its sole cost and expense.

ARTICLE 10.

RESALE, LEASE AND OCCUPANCY RESTRICTIONS

Section 10.1. Estoppel Certificate. When the Owner of any Condominium Unit proposes to lease, sell or mortgage the same in compliance with other provisions of this Condominium Declaration, the Condominium Association, upon written request of the Owner of such Condominium Unit, shall furnish within ten (10) days after receipt of such written request, to the

proposed lessee, purchaser or mortgagee, a statement stating all Assessments and other monies which are due and payable to the Condominium Association by the Owner of such Condominium Unit with respect to the Condominium Unit. Such statement shall be executed by any officer of the Condominium Association. The Owner requesting the certificate may be required by the Condominium Association to pay a reasonable sum to cover the costs of examining the records and preparing the certificate. Except as set forth in Section 8.16 hereof, in any transfer of title of a Condominium Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments against the grantor made prior to the time of such transfer of title, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor.

Section 10.2. Leases. A Unit Owner intending to make a bona fide lease or renewal of a lease of a Condominium Unit shall give to the Condominium Association written notice of that intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as the Condominium Association may reasonably require, and a copy of the proposed lease. Unit Owners must also comply with all Rules concerning Leasing in effect at the time of the Lease. All leases shall provide that the Condominium Association shall have the right to immediately terminate the lease and evict the tenant upon default by the tenant in observing any of the provisions of this Condominium Declaration, the Articles of Incorporation and Bylaws of the Condominium Association, applicable rules and regulations, or other applicable provisions of any agreement, document or instrument governing the Condominium. No portion of a Condominium Unit (other than an entire Condominium Unit) may be rented. No rooms may be rented and no transient tenants may be accommodated. No Condominium Unit may be subject to more than two (2) leases in any twelve (12) month period, regardless of the lease term. No lease term shall be less than thirty (30) days. Tenants may not sublease a Condominium Unit. The Unit Owner and the tenant will be jointly and severally liable to the Condominium Association for any amount in excess of such sum which is required by the Condominium Association to effect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant.

Section 10.3. Use Restrictions. No Condominium Unit shall be occupied by any Person other than the Owner(s) thereof or the applicable Members' Permittees and in no event for other than as a residence. Under no circumstances may more than one family reside in a Condominium Unit at one time. In no event shall occupancy (except for temporary occupancy by guests) exceed two (2) persons per bedroom and one (1) person per den (as defined by the Condominium Association for the purpose of excluding from such definition living rooms, dining rooms, family rooms, country kitchens and the like). The Board of Directors shall have the power to authorize occupancy of a Condominium Unit by Persons in addition to those set forth above. As used herein, "family" or words of similar import shall be deemed to include a spouse, children, parents, brothers, sisters, grandchildren and other Persons permanently cohabiting the Condominium Unit as or together with the Owner or permitted occupant thereof. As used herein, "guest" or words of similar import shall include only those Persons who have a principal residence other than the Condominium Unit. Unless otherwise determined by the Board of Directors, a Person occupying a Condominium Unit for more than one (1) month shall not be deemed a guest but, rather, shall be deemed a lessee for purposes of this Condominium Declaration (regardless of whether a lease exists or rent is paid) and shall be subject to the provisions of this Condominium Declaration which apply to leases and lessees. The purpose of this paragraph is to prohibit the circumvention of the provisions and intent of this Article and the Board of Directors shall enforce, and the Owners comply with, same with due regard for such purpose. No changes may be made in buildings erected

by Developer or its respective affiliates and/or assigns (except if such changes are made by Developer) without the consent of the Architectural Control Board (as more particularly described in the Master Declaration). The terms “structure” and “improvement” shall include fences, walls, landscaping, gas tanks, gas containers, barbecue grills and/or any other outdoor equipment.

ARTICLE 11.

ENFORCEMENT

Section 11.1. Compliance by Owners. Every Owner and Member’s Permittee shall comply with the restrictions and covenants set forth in the Condominium Documents. The failure of the Condominium Association to enforce any such restrictions and covenants shall not constitute a waiver of the right to do so thereafter.

Section 11.2. Enforcement. Failure of an Owner or his Member’s Permittee to comply with the restrictions and covenants set forth in the Condominium Documents shall entitle the Condominium Association to all remedies available under the Condominium Act and/or other applicable law, which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof. The offending Owner shall be responsible for interest and all costs of enforcement including attorneys’ fees actually incurred and court costs (at all pre-trial, trial, appellate and post judgment proceedings).

Section 11.3. Fines. Any violation of this Declaration or the Rules and Regulations promulgated in connection herewith shall be reported immediately to a member of the Board of Directors of the Condominium Association, a Condominium Association officer and/or the management agent. The Condominium Association shall afford the violator an opportunity for hearing before a committee of Owners (who are neither members of the Board of Directors nor Persons residing in the household of a member of the Board of Directors) after reasonable notice of not less than fourteen (14) days and said notice shall include: (a) a statement of the date, time and place of the hearing; (b) a statement of the provisions of the Condominium Documents which have allegedly been violated; and (c) a short and plain statement of the matters asserted by the Condominium Association. Such fine, which shall not exceed \$100 for each violation, and \$100 per day for each day that such violation continues after notice of the same is given, each such day being deemed to be a separate violation in the event of ongoing violations, shall be collected by the Condominium Association and shall become a part of the Common Surplus of the Condominium; provided, that no such fine shall in the aggregate exceed \$1,000.00. If the committee of Owners does not agree, the fine or suspension may not be imposed. The violator 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 Condominium Association. If the Board of Directors of the Condominium Association deems it necessary, it may bring an action at law or in equity, in the name of the Condominium Association, to enforce the Condominium Documents, including the provision herein for fines. In the event any such action is instituted, and reduced to judgment in favor of the Condominium Association, the Condominium Association shall in addition be entitled to recover its costs and attorneys’ fees incurred in enforcing the Condominium Documents.

ARTICLE 12.

CASUALTY OR CONDEMNATION

Section 12.1. Damage to or Taking of Condominium Property. Damage to or taking of all or any portion of the Condominium Property by casualty or condemnation shall be addressed in the following manner, notwithstanding any provision in this Condominium Declaration to the contrary:

(a) In the event of damage to or taking of the Condominium Property, if the insurance proceeds or condemnation award is sufficient to effect total restoration, then the Condominium Association shall cause such portions of the Condominium Property to be repaired and reconstructed substantially as they previously existed. If there are funds remaining after completion of the restoration, such funds shall be applied to the reserve fund. .

(b) If the insurance proceeds are within Five Hundred Thousand Dollars (\$500,000.00) or less of being sufficient to effect total restoration of the Condominium Property, then the Condominium Association shall cause such portions of the Condominium Property to be repaired and reconstructed substantially as they previously existed and the difference between the insurance proceeds and the actual cost shall be levied as a Special Assessment (and not a Capital Improvement Assessment) against each of the Owners in equal shares in accordance with the provisions of Article 8 of this Condominium Declaration.

(c) If the insurance proceeds are insufficient by more than Five Hundred Thousand Dollars (\$500,000.00) to effect total restoration of the Condominium Property, Unit Owners who represent sixty-seven percent (67%) of the total, allocated votes, and Institutional First Mortgagees that represent fifty-one percent (51%) of the Units that are subject to mortgages held by Institutional First Mortgagees, the Condominium Property will not be rebuilt and the Condominium will be terminated. If the aforesaid consents are not obtained, the Condominium Property shall be rebuilt and restored in substantially the same manner as existed prior to damage. In such event, the Condominium Association will obtain the additional funds required to complete such restoration by levying a Capital Improvement Assessment against all Members.

(d) Each Owner shall be liable to the Condominium Association for any damage to the Condominium Property not fully covered by collected insurance which may be sustained by reason of the negligence or willful misconduct of such Owner or his Member's Permittees. Notwithstanding the foregoing, the Condominium Association reserves the right to charge such Owner pursuant to Article 22 hereto in an amount equal to the increase, if any, in the insurance premium directly attributable to the damage for which such Owner is responsible. In the case of joint ownership of a Condominium Unit, the liability of such Owners shall be joint and several.

(e) Each Unit Owner hereby appoints the Condominium Association as its attorney-in-fact to represent the Unit Owners in any proceedings, negotiations, settlements, or agreements relating to awards for a casualty, condemnation or liquidation of the Condominium.

Section 12.2. Damage to or Taking of Condominium Unit. If the damage or taking shall be limited only to the Condominium Unit(s) for which the responsibility of maintenance and repair

is that of the affected Owner(s), then such Owner(s) shall be responsible for, and shall be obligated to, repair or reconstruct such Condominium Unit(s). In no event shall the Condominium Association be responsible for, or obligated to repair, reconstruct or replace, the Condominium Unit(s) or any property of the Owners owned, maintained, stored or held therein, thereon or in connection therewith.

Section 12.3. Compliance with Plans. Repair or reconstruction of Condominium Property shall be substantially in accordance with the plans and specifications pursuant to which the same was originally constructed; provided that the Board of Directors may authorize reasonable variations from the original plans and specifications as may appear to them to be necessary or desirable.

Section 12.4. Insurance Proceeds or Condemnation Awards. Nothing in the Condominium Documents shall give a Unit Owner or any other Person priority over any rights of an Institutional First Mortgagee, pursuant to its mortgage on a Condominium Unit, in the case of payment to the Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of Condominium Units and/or Common Elements.

ARTICLE 13.

INSURANCE

Section 13.1. Condominium Property Insurance. The Condominium Association shall use its best efforts to obtain and maintain insurance covering the Insured Property (as hereinafter defined), which shall be insured in an amount not less than the replacement cost thereof as determined by an independent insurance appraisal or update of a prior appraisal. The replacement cost must be determined at least once every 36 months. The policy shall provide primary coverage for the following (the "Insured Property"): (i) all portions of the Condominium Property as originally installed or replacement of like kind and quality, in accordance with the original plans and specifications, and (ii) all alterations or additions made to the Condominium Property or Condominium Association property pursuant to Section 718.113(2), Florida Statutes. Notwithstanding the foregoing, the Insured Property shall not include, and shall specifically exclude, all personal property within the Unit or Limited Common Elements, and floor, wall, and ceiling coverings, electrical fixtures, appliances, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of the Condominium Unit and serve only such Condominium Unit. Such property and any insurance thereupon is the responsibility of the Owner. Such policies may contain reasonable deductible provisions as determined by the Board of Directors of the Condominium Association. When available at reasonable premiums (in the determination of the Board), extended coverages may also be obtained, including, without limitation, coverages against loss or damage by fire and other hazards covered by an "all-risks" endorsement or policy, and such other risks as from time to time are customarily covered with respect to buildings and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief. The Condominium Association shall also maintain flood insurance on the insurable improvements on the Common Elements in an amount equal to the lesser of 100% of the replacement costs of all insurable improvements (if any) within the Common Elements or the

maximum amount of coverage available under the National Flood Insurance Program, in either case if the insured improvements are located within an “A” flood zone, but in any event no less than that required under Subpart B7 of the Fannie Mae Single Family Selling Guide. Premiums for all insurance carried by the Condominium Association are common expenses included in the General Assessments made by the Condominium Association.

Section 13.2. Waiver of Subrogation. The insurance policies shall waive: (i) the insurer’s right to subrogation against the Condominium Association and against Owners individually and as a group; (ii) any provision that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk, and (iii) any provision that avoids liability for a loss caused by an act of the Board of Directors, or by a member of the Board of Directors or by one or more Owners.

Section 13.3. Liability and Other Insurance. The Condominium Association shall have the power to and shall obtain comprehensive public liability insurance, including medical payments and malicious mischief, with coverage of at least \$1,000,000.00 (if available at reasonable rates and upon reasonable terms) for any single occurrence, insuring against liability for bodily injury, death and property damage arising from the activities of the Condominium Association or with respect to property under its jurisdiction, including, if obtainable, a cross liability endorsement insuring each Member against liability to each other Member and to the Condominium Association and vice versa and coverage for legal liability resulting from lawsuits related to employment contracts shall also be maintained. The Condominium Association may also obtain Worker’s Compensation insurance and other liability, insurance as it may deem desirable, insuring the Condominium Association and its Board of Directors and officers from liability in connection with the Common Elements, the premiums for which shall be common expenses and included in the Assessments made against the Members. The Condominium Association may also obtain such other insurance as the Board of Directors deems appropriate. All insurance policies shall be reviewed at least annually by the Board of Directors and the limits thereof may be increased in the discretion of the Board of Directors. The Board of Directors may also obtain such errors and omissions insurance, indemnity bonds, fidelity bonds and other insurance as it deems advisable, insuring the Board of Directors or any management company engaged by the Condominium Association against any liability for any act or omission in carrying out their obligations hereunder, or resulting from their membership on the Board of Directors or any committee thereof. At a minimum, however, there shall be blanket fidelity bonding of anyone (compensated or not) who controls or disburses funds held or administered by the Condominium Association (including but not limited to those individuals authorized to sign checks on behalf of the Condominium Association, and the president, secretary, and treasurer of the Condominium Association), with the Condominium Association to be an obligee thereunder. Such bonding shall cover the maximum funds that will be in the custody of the Condominium Association or management company at any one time during the time the bond is in force. In addition, the fidelity bond coverage must at least equal the sum of three (3) months of General Assessments, plus all reserve funds.

Section 13.4. Condominium Units. The Owners shall be responsible for maintaining insurance on their respective Condominium Units and any property of the Owners owned, maintained, stored or held therein, thereon or in connection therewith. In no event shall the Condominium Association be responsible for, or obligated to obtain or maintain, insurance for the

Condominium Units or any other property of the Owners owned, maintained, stored or held therein, thereon or in connection therewith.

ARTICLE 14.

INSTITUTIONAL FIRST MORTGAGEE PROTECTION

Section 14.1. Institutional First Mortgagee Protection. The following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Condominium Declaration, these added provisions shall control):

(a) The Condominium Association shall be required to make available to all Institutional First Mortgagees for inspection, upon request, during normal business hours or under other reasonable circumstances, current copies of the Condominium Documents and the books, records and financial statements of the Condominium Association.

(b) Any Institutional First Mortgagee shall have the right to timely written notice of (i) any condemnation or casualty loss affecting either a material portion of the Condominium or the Unit securing a mortgage by such Institutional First Mortgagee, (ii) a sixty (60) day delinquency in the payment of the Assessments on its mortgaged Condominium Unit(s), (iii) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Condominium Association, and (iv) any proposed action which requires the consent of a specified number of Institutional First Mortgagees.

(c) Unless at least 66-2/3% of the Institutional First Mortgagees (based upon one vote for each mortgage owned by them), and the Members holding at least two-thirds (2/3rds) of the votes entitled to be cast by them, have given their prior written approval, neither the Condominium Association nor the Owners shall:

(i) by act or omission seek to sell or transfer the Common Elements and any improvements thereon which are owned by the Condominium Association, provided, however, that the granting of easements for utilities or for other such purposes consistent with the intended use of such property by the Condominium Association or Developer or the transfer of the Common Elements to another similar association of the Owners in accordance with the Articles or dedication of such property to the public shall not be deemed a transfer within the meaning of this clause;

(ii) change the basic methods of determining the obligations, Assessments, dues or other charges which may be levied against a Condominium Unit, except as provided herein with respect to future Condominium Units;

(iii) fail to maintain fire and extended insurance on insurable portions of the Common Elements as provided herein; or

(iv) use hazard insurance proceeds for losses to any Common Elements for other than the repair, replacement or reconstruction of the improvements.

ARTICLE 15.

GENERAL PROVISIONS

Section 15.1. Notice. Any notice required to be sent to any Member or Owner under the provisions of this Condominium Declaration shall be deemed to have been properly sent when personally delivered or electronically mailed or mailed, postpaid, to the last known address of the Person who appears as Member or Owner on the records of the Condominium Associations at the time of such mailing.

Section 15.2. Severability. Invalidation of any one of these covenants or restrictions or any part, clause or word hereof, or the application thereof in specific circumstances, by judgment or court order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect.

Section 15.3. Effective Date. This Condominium declaration shall become effective upon its recordation in the Public Records of the County.

Section 15.4. Conflict. This Condominium Declaration shall take precedence over conflicting provisions in the Articles and Bylaws and said Articles shall take precedence over the Bylaws.

Section 15.5. Easements. Should the intended creation of any easement provided for in this Condominium Declaration fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant of easement deemed not to have been so created shall nevertheless be considered as having been granted directly to the Condominium Association as agent for such intended grantees for the purpose of allowing the original party or parties to whom the easements were originally intended to have been granted the benefit of such easement and the Owners designate hereby the Condominium Association (or either of them) as their lawful attorney-in-fact to execute any instrument on such Owners' behalf as may hereafter be required or deemed necessary for the purpose of later creating such easement as it was intended to have been created herein. Formal language of grant or reservation with respect to such easements, as appropriate, is hereby incorporated in the easement provisions hereof to the extent not so recited in some or all of such provisions.

Section 15.6. Notices and Disclaimers. THE CONDOMINIUM ASSOCIATION OR THE MASTER ASSOCIATION MAY ENTER INTO A CONTRACT WITH A SERVICE PROVIDER FOR THE PROVISION OF SECURITY SERVICES. NEITHER THE CONDOMINIUM ASSOCIATION OR THE MASTER ASSOCIATION, NOR ANY OF THEIR OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") GUARANTEES OR WARRANTS, EXPRESSLY OR IMPLIEDLY, THE MERCHANTABILITY OR FITNESS FOR USE OF ANY SECURITY SYSTEM OR SECURITY SERVICES, OR THAT ANY SECURITY SYSTEM OR SECURITY SERVICES WILL PREVENT INTRUSIONS, FIRES OR OTHER OCCURRENCES, OR THE CONSEQUENCES OF SUCH OCCURRENCES, REGARDLESS OF WHETHER OR NOT

THE SECURITY SYSTEM OR SECURITY SERVICES ARE DESIGNED TO MONITOR SAME; AND EVERY OWNER OR OCCUPANT OF A CONDOMINIUM UNIT INCLUDED IN THE PROPERTIES SERVICED BY ANY SUCH SECURITY SYSTEM OR SECURITY SERVICES ACKNOWLEDGES THAT THE LISTED PARTIES ARE NOT INSURERS OF THE OWNER OR OCCUPANTS PROPERTY OR OF THE PROPERTY OF OTHERS LOCATED ON THE CONDOMINIUM PROPERTY AND WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES OR DEATHS RESULTING FROM SUCH OCCURRENCES. It is extremely difficult and impractical to determine the actual damages, if any, which may proximately result from a failure on the part of a security service provider to perform any of its obligations with respect to security services and, therefore, every Owner or occupant of the Condominium Property receiving security services agrees that the Listed Parties assume no liability for loss or damage to property or for personal injury or death to persons due to any reason, including, without limitation, failure in transmission of an alarm, interruption of security service or failure to respond to an alarm because of (a) any failure of the Owner's security system, (b) any defective or damaged equipment, device, line or circuit, (c) negligence, active or otherwise, of the security service provider or its officers, agents or employees, or (d) fire, flood, riot, war, act of God or other similar causes which are beyond the control of the security service provider(s). Every owner or occupant of property further agrees for himself, his grantees, tenants, guests, invitees, licensees, and family members that if any loss or damage should result from a failure of performance or operation, or from defective performance or operation, or from improper installation, monitoring or servicing of the system, or from negligence, active or otherwise, of the security service provider or its officers, agents, or employees, the liability, if any, of the Listed Parties for loss, damage, injury or death sustained shall be limited to a sum not exceeding Two Hundred Fifty and No/100 (\$250.00) U.S. Dollars, which limitation shall apply irrespective of the cause or origin of the loss or damage and notwithstanding that the loss or damage results directly or indirectly from negligent performance, active or otherwise, or non-performance by the Listed Parties. Further, in no event will the Listed Parties be liable for consequential damages, wrongful death, personal injury or commercial loss. In recognition of the fact that interruptions in security and other services will occur from time to time, the Listed Parties shall not be liable, and no user of any system shall be entitled to any refund, rebate, discount or offset in applicable fees, for any interruption in services, regardless of whether or not same is caused by reasons within the control of the then-provider(s) of such services.

Section 15.7. United States Flag. Notwithstanding anything contained herein to the contrary, each Unit Owner may display one portable, removable United States Flag in a respectful way and, on Armed Forces Day, Memorial Day, Flag Day, Independence Day and Veterans Day, may also display in a respectful way portable, removable Official Flags not larger than 4¹/₂ feet by 6 feet that represent the United States Army, Navy, Air Force, Marine Corp or Coast Guard.

Section 15.8. Conservation Easement. A portion of the Condominium Property is subject to a Conservation Easement pursuant to the SFWMD Permit. All Owners and occupants of a Unit shall be required to comply with the terms of the Conservation Easement. The Conservation Easement requires that a portion of the Condominium Property be preserved in its natural condition. The Condominium Association shall be required to enforce compliance with the terms of the Conservation Easement and may take any action (including but not limited to levying fines or seeking injunctive relief) against any Owner or occupant violating the terms of the Conservation Easement.

Section 15.9. Access Control System. It is currently intended that there will be two entrances to the Condominium, one entrance in the northwest portion of the Condominium and another entrance in the southeast portion of the Condominium. It is currently intended that the gate at the northwest entrance to the Condominium from Haldeman Creek Drive (the “Northwest Gate”) will be owned, operated, and maintained by the Condominium Association. Windstar on Naples Bay residents, other than Unit Owners, owners of Dock Slips and their guests, may not use the Northwest Gate for vehicular access, but may use the Northwest Gate for pedestrian or bicycle access to roadways and walkways within the Condominium. It is currently intended that the gate at the southeast entrance to the Condominium from Lakeview Drive (the “Southeast Gate”) will be operated and maintained by the Master Association. Windstar on Naples Bay residents, other than Unit Owners or owners of Dock Slips, may not use the Southeast Gate for vehicular access, but may use the Southeast Gate for pedestrian or bicycle access. The Master Association may provide appropriate cameras tied in to the surveillance equipment at the main Windstar on Naples Bay gate for surveillance and with capability of later review of video.

Section 15.10. THE MASTER ASSOCIATION, AND THE CONDOMINIUM ASSOCIATION SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE ACCESS CONTROL OR INEFFECTIVENESS OF ACCESS CONTROL MEASURES UNDERTAKEN. THE CONTROL AND OPERATION OF THE SOUTHEAST GATE AND NORTHWEST GATE IS SUBJECT TO CHANGE. Each and every Owner and the occupant of each Condominium Unit acknowledges that Developer, the Master Association, the Condominium Association, and their employees, agents, managers, directors, and officers, are not insurers of Owners or Units, or the personal property located within Units. The Master Association and the Condominium Association will not be responsible or liable for losses, injuries, or deaths resulting from any casualty or intrusion into a Unit.

Section 15.11. Mail Kiosks. Mail kiosks will be installed and utilized at one or more delivery points within the Condominium. The mailbox sites, equipment type, and method of delivery may change from time to time at the discretion of the United States Postal Service.

Section 15.12. Marine Traffic. Each and every Owner and the occupant of each Condominium Unit acknowledges that Haldeman Creek is a navigable channel subject to marine traffic. The Condominium Association cannot control or regulate such traffic and does not guarantee particular views, scenery, serenity or peaceful conditions of Haldeman Creek.

Section 15.13. MSTU/MSBU Assessments. Each and every Owner of each Condominium Unit acknowledges that in addition to property taxes, such Owners may be required to pay Municipal Service Taxing Unit or Municipal Service Benefit Unit assessments, as levied by the County tax collector office.

Section 15.14. Annexation Agreement. Pursuant to the Annexation Agreement, Developer and Master Association have agreed upon the terms of the construction and operation of certain improvements within Windstar on Naples Bay, including but not limited to the Dock Slips. All Owners acknowledge that the development and operation of the Condominium (and the Dock Slips, if constructed) will be is subject to the Annexation Agreement.

ARTICLE 16.

AMENDMENTS TO CONDOMINIUM DECLARATION

Except as elsewhere in this Condominium Declaration or in the Condominium Act otherwise provided, this Condominium Declaration may be amended only as follows:

Section 16.1. This Condominium Declaration may be amended, changed, deleted or added to upon the affirmative vote of the Owners of at least seventy-five percent (75%) of the Condominium Units present in person or by proxy at any Annual Members' Meeting or any special meeting of the Members called for that purpose or who have acted by written response in lieu of a meeting as permitted by the Bylaws provided that there is a quorum of [0%] of the Members at such meeting in person or proxy. Any proposed changes to this Condominium Declaration must be provided to Members on two occasions at least thirty (30) and fourteen (14) days before put to a vote. Section 16.2. Recordation. Any amendment approved as required hereby shall be transcribed and certified in such form as may be necessary to record the same in the public records of the County, which recordation shall be accomplished no later than thirty (30) days after the adoption of such amendment.

ARTICLE 17.

MASTER ASSOCIATION

The Condominium Property is part of Windstar on Naples Bay and is subject to the terms, provisions, covenants, rules, restrictions, limitations, easements and other rights, duties, obligations and interests set forth in, or created by, the Master Declaration (all capitalized terms used in this Article 17 shall have the meaning set forth in the Master Declaration). Each Owner is automatically a member of the Master Association upon acceptance of a deed or other conveyance of a Condominium Unit. The Master Declaration includes restrictions on the use of Condominium Units and requires the approval of the Architectural Control Board for any alterations thereto. The Master Association shall have the power to assess Owner(s) of Condominium Unit(s) for common expenses and other costs of operating and maintaining Windstar on Naples Bay and to impose and foreclose liens against the Condominium Unit(s) owned by such Owner(s) in the event such assessments are not paid when due all in accordance with the terms of the Master Declaration. The Owners shall be entitled to use the common areas of Windstar on Naples Bay in accordance with and subject to the terms of the Master Declaration; provided, however, the Condominium Association makes no representations or warranties regarding, and Owner, by acceptance of a deed to his or her Condominium Unit, waives, to the fullest extent permitted by applicable law, any responsibility and/or liability of the Condominium Association for, the safety, completion, existence, availability and/or any other matter relating to or in any way appertaining or regarding any other portions of Windstar on Naples Bay (other than the Condominium Property) for which the Master Association and/or any other person or entity has responsibility or jurisdiction. WITH RESPECT TO OTHER TERMS, PROVISIONS, COVENANTS, RULES, RESTRICTIONS, LIMITATIONS, EASEMENTS AND OTHER RIGHTS, DUTIES AND OBLIGATIONS OF

OWNERS RELATING TO WINDSTAR ON NAPLES BAY, ALL PERSONS ARE REFERRED TO THE MASTER DECLARATION.

ARTICLE 18.

DISCLAIMER OF LIABILITY OF THE CONDOMINIUM ASSOCIATION

NOTWITHSTANDING ANYTHING CONTAINED IN THE CONDOMINIUM DOCUMENTS, THE CONDOMINIUM ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE CONDOMINIUM PROPERTY, INCLUDING, WITHOUT LIMITATION, OWNERS, MEMBERS PERMITTEES AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

(a) IT IS THE EXPRESS INTENT OF THE CONDOMINIUM DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE CONDOMINIUM ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE CONDOMINIUM PROPERTY HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE CONDOMINIUM PROPERTY AND THE VALUE THEREOF;

(b) THE CONDOMINIUM ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, THE COUNTY, AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND

(c) ANY PROVISIONS OF THE CONDOMINIUM DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE CONDOMINIUM ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS CONDOMINIUM UNIT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE CONDOMINIUM PROPERTY (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS ARTICLE AND SHALL BE DEEMED TO HAVE AUTOMATICALLY

WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE CONDOMINIUM ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE CONDOMINIUM ASSOCIATION HAS BEEN DISCLAIMED IN THIS ARTICLE.

AS USED IN THIS ARTICLE, "CONDOMINIUM ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE CONDOMINIUM ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS. THE PROVISIONS OF THIS ARTICLE SHALL ALSO INURE TO THE BENEFIT OF DEVELOPER, WHICH SHALL BE FULLY PROTECTED HEREBY.

ARTICLE 19.

TERMINATION

The Condominium may be terminated in the following manner in addition to the manner provided by the Condominium Act.

Section 19.1. Destruction or Condemnation. In the event it is determined in the manner provided in Article 12 that the improvements shall not be reconstructed because of total destruction, major damage or condemnation, the Condominium plan of ownership will be thereby terminated.

Section 19.2. Plan of Termination. "the Condominium may be terminated pursuant to a Plan of Termination (as defined in the Condominium Act) approved by at least eighty percent (80%) of the Owners, provided that not more than ten percent (10%) of the Owners have rejected the Plan of Termination by negative vote or by providing written objections thereto. In the event such withdrawal is authorized as aforesaid, and provided that the Board of Directors first notifies the Division of an intended withdrawal, the Condominium Property shall be subject to an action for partition by any Owner, mortgagee or lienor as if owned in common in which event the net proceeds of the partition shall be divided among all Owners in proportion to their respective interests in the Common Elements or as otherwise provided in the Plan of Termination, provided, however, that no payment shall be made to an Owner until there has first been paid off out of the Owner's share of such net proceeds all mortgages and liens on the Unit in the order of their priority. The termination of the Condominium, as aforesaid, shall be evidenced by a certificate of the Condominium Association executed by its president and secretary, certifying as to the basis of the termination and said certificate shall be recorded among the Public Records of the County. The Condominium Association shall, within thirty (30) business days following such recordation, provide the Division with a copy of such recorded certificate. This Section may not be amended without the consent of Developer as long as it owns any Condominium Unit. The rights under this Section shall exist so long as Developer holds a Condominium Unit for sale in the ordinary course of business.

ARTICLE 20.

CHARGES: LIABILITY AND ENFORCEMENT

The following provisions shall govern the making, levying and collecting of charges against individual Owners and their Condominium Units as provided in Sections 9.5, 12.1(d), 20.1, 20.2 and 20.3 of this Declaration.

Section 20.1. Right to Levy Charges. The Condominium Association (through the Board of Directors) shall have the right, subject to any limitations described in the Condominium Act, to levy charges against Owner(s) to the exclusion of other Owners for (i) the repair or replacement of damage to any portion of the Common Elements (including, without limitation, improvements and landscaping thereon) caused by the misuse, negligence or other action or inaction of an Owner or his Member Permittee(s) or (ii) the costs of work performed by the Condominium Association in accordance with Section 9.5 of this Condominium Declaration and (iii) against particular Owners and their Condominium Units for fines and expenses incurred against particular Owners and their Condominium Units to the exclusion of others.

Section 20.2. Delinquency or Default. The payment of any charge shall be in default if not paid to the Condominium Association on or before the date the Condominium Association specifies for payment. When in default, delinquent charges shall bear interest from the date due at the highest rate permitted by law or such other rate as may be determined by the Board of Directors from time to time, until the same, and all interest due thereon, has been paid in full.

Section 20.3. Personal Liability of Unit Owner. The Owner(s) of each Unit subject to a charge shall be personally liable, jointly and severally, as the case may be, to the Condominium Association for such charges, and for all costs of collecting the charges and interest thereon, including reasonable attorneys' and legal assistants' fees (at all pre-trial, trial, appellate and post-judgment proceedings), whether suit be brought or not, levied or otherwise coming due while such person(s) or entity(ies) own(s) a Unit.

[Signature pages follow]