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**AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM
FOR
BEACHWALK CONDOMINIUM**

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Exhibits

- “A” Legal Description of the Condominium Property
- “B” Survey and Plot Plan of the Condominium Property
- “C” Graphic Description of the Condominium Property
- “D” Undivided Interest in the Common Expenses and Common Elements of
the Condominium
- “E” Amended and Restated Articles of Incorporation of Beachwalk of Vero
Beach Condominium Association, Inc.
- “F” Amended and Restated Bylaws of Beachwalk of Vero Beach
Condominium Association, Inc.

AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM
FOR
BEACHWALK CONDOMINIUM

The undersigned hereby certifies that this document is an Amended and Restated Declaration of Beachwalk Condominium amending that Declaration of Condominium as recorded in Official Record Book 1376, Page 2140 of the Public Records of Indian River County, Florida, and all subsequent amendments thereto.

The property described in Exhibit "A" hereto, together with all improvements now or hereafter situated thereon and the easements, rights, privileges and obligations appurtenant and appertaining thereto, excluding any public utility installations located on or under the Condominium Property, known and described as BEACHWALK CONDOMINIUM, shall continue under the condominium form of use and ownership pursuant to Chapter 718, Florida Statutes.

The following Exhibits are incorporated herein by reference and made a part hereof:

Exhibit "A" - Legal Description of the Property as recorded at Public Records Book 1376, Page 2185 to 2186 of the Public Records of Indian River County, Florida and all subsequent amendments thereto;

Exhibit "B" - Survey and Plot Plan of Condominium Property as recorded at Public Records Book 1376, Page 2187 to 2190 of the Public Records of Indian River County, Florida and all subsequent amendments thereto;

Exhibit "C" - Graphic Description of the Condominium Property as recorded in Public Records Book 1376, Page 2191 to 2237, of the Public Records of Indian River County, Florida and all subsequent amendments thereto;

Exhibit "D"- Undivided Interest in the Common Expenses and Common Elements of the Condominium as recorded at Public Records Book as referred to and recorded in the Amended Declaration at Official Record Book 1376, Page 2238 to 2240 of Indian River County, Florida;

Exhibit "E" - Amended and Restated Articles of Incorporation of Beachwalk of Vero Beach Condominium Association, Inc. as referred to and recorded at Official Record Book 2339 Page 1512 of Indian River County, Florida;

Exhibit "F" - Amended and Restated Bylaws of Beachwalk of Vero Beach Condominium Association, Inc. as referred to and recorded at Official Record Book 2339, Page 1526 of Indian River County, Florida.

The Amended and Restated Declaration of Beachwalk of Vero Beach Condominium Association, Inc. was approved by at least a majority of the Board of Directors of the Association, at its meeting on March 19, 2009, and was further approved by the affirmative vote of at least seventy-five percent (75%) of the Unit Owners of the Association during their meeting on April 9, 2009, as required by Florida Statute and the Condominium Documents.

ARTICLE 1 **DEFINITIONS**

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

1.1 "Amended and Restated Declaration or "Declaration of Condominium" or "Declaration" means this instrument, as it may be amended from time to time, which amends and restates the Declaration of Condominium of Beachwalk Condominium dated January 12, 2000 and recorded at Official Record Book 1376, Page 2140 of Indian River County, Florida.

1.2 "Assessment" or "Assessments" means a share of the funds required for the payment of Common Expenses which from time to time are assessed against a Unit Owner, the payment of which is secured by a lien upon the Unit.

1.3 "Association" means BEACHWALK OF VERO BEACH CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation, the entity responsible for the operation and administration of the Condominium.

1.4 "Board of Directors" or "Board" means the Board of Directors of the Association.

1.5 "Bylaws" means the Bylaws of the Association, as amended from time to time.

1.6 "Common Elements" means all of the real property of the Condominium not included in the Units and such other property as may be designated in this Declaration of Condominium.

1.7 "Common Expenses" means all expenses incurred by the Association for the Condominium or as otherwise may be designated in this Declaration of Condominium.

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

1.9 "Condominium" means the Condominium formed and existing under this instrument.

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

1.11 "Condominium Building(s)" or "Building(s)" means those certain buildings constituting the principal improvements located on the land hereby submitted to the condominium form of ownership, and any other improvements located on land hereafter added to the Condominium.

1.12 "Condominium Documents" means this Declaration of Condominium and all of the exhibits hereto, as they may be amended from time to time.

1.13 "Condominium Parcel" means a Unit together with the undivided share of the Common Elements which is appurtenant to that Unit.

1.14 "Condominium Property" means the land described in Exhibit "A" submitted to the condominium form of ownership pursuant to this Declaration and all land hereafter added to the Condominium, all improvements now and hereafter constructed and situated on said land, including all Units and Common Elements, and all easements and rights appurtenant thereto for use in connection with the Condominium.

1.15 "County" means Indian River County, Florida.

1.16 "Institutional 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, which holds a first mortgage on a Unit or Units.

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

1.18 "Special Assessments" means assessments for services which the Association is authorized or required to provide, to the extent that the Assessments are insufficient to fund such services. Such Special Assessments are more particularly described in Article 12 of this Declaration.

1.19 "Unit" means a part of the Condominium that is subject to exclusive ownership.

1.20 "Unit Owner" or "Owner" means the Owner of a Condominium Parcel.

1.21 "Utilities" means, but is not limited to, telecommunication, gas, electricity, water and sewer, and garbage and trash disposal.

ARTICLE 2

DESCRIPTION OF THE CONDOMINIUM PROPERTY

2.1 General Description of the Condominium Property. The Condominium Property is situated in the County of Indian River, Florida.

2.2 Survey and Graphic Description of the Condominium Property. Exhibit "B" to this Declaration is a site plan (also described as plot plan) and survey of the Condominium Property. Exhibit "C" is a graphic description of the improvements, including the Units. Exhibits "B" and "C", together with this Declaration, identify the Common Elements and each Unit in the Condominium and their relative size and location.

2.3 Time Share Estates. Time share estates will not be created or permitted within the Condominium.

ARTICLE 3

DEFINITION OF UNITS, COMMON ELEMENTS **AND LIMITED COMMON ELEMENTS**

3.1 Units. The Condominium contains a maximum total of forty-five (45) Units which are located and individually described in Exhibit "C" hereto. The boundaries of each Unit are as follows:

(a) Upper and Lower Boundaries. The upper and lower boundaries of each 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 Unit.

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

(b) Perimetrical Boundaries. The perimetrical boundaries of the Unit shall be the vertical planes formed by the unfinished interior surfaces of the boundary walls as depicted in Exhibit "C", 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 Unit. In addition to the area within the perimetrical and upper and lower boundaries described above, each Unit shall be deemed to include within its boundaries the air conditioning and ventilating equipment exclusively serving the unit, and all doors, windows, glass, screening, and any other materials covering openings in the exterior of the Unit, which serve the Unit exclusively, but excluding balconies, porches and terraces which are limited common elements.

3.2 Common Elements. The term "Common Elements" includes all of the real property of the Condominium not within Units including, without limitation: (1) Easements through Units for conduits, pipes, ducts, vents, plumbing, wiring and other facilities, equipment and or fixtures for the furnishing of utility services, heating and cooling and/or ventilation to Units and Common Elements; (2) easements of support in every portion of a Unit which contribute to the support of other Units and/or Common Elements; (3) property and installations for the furnishing of utility services to more than one Unit or to the Common Elements or to a Unit other than the Unit containing the installation; (4) fixtures owned or held for the common use, benefit and enjoyment of all Owners of Units in the Condominium; (5) all trash rooms; (6) all parking spaces which have not been assigned to the exclusive use of a Unit Owner; (7) mail boxes (subject to exclusive rights of designated Unit Owners to use the same); (8) all walkways and hallways outside of the Units; (11) all storage areas which have not been assigned to the exclusive use of a Unit Owner; (12) all paved or landscaped areas not within Units but located within the legal description of the Condominium Property. The Common Elements include all Limited Common Elements defined in Section 3.3.

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 Unit or Units to the exclusion of other Units, including, without limitation:

(a) the exclusive use of any parking space(s) assigned to a Unit. The location of the parking spaces has been designated on the plot plan which is Exhibit "B" to this Declaration.

(b) each balcony, porch or terrace, including all screening and shutters, which are attached to and exclusively serve a Unit.

(c) the exclusive use of any storage area(s) assigned as a Limited Common Element. The Owner of each Unit has been assigned, as a Limited Common Element, the exclusive use of one (1) storage area. The location of the storage areas is designated on the graphic description which is Exhibit "C" to this Declaration.

ARTICLE 4
APPURTENANCES TO UNITS

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

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 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 Unit is that proportion of the total set forth, as a percentage, in Exhibit "D".

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

4.3 Air Space. An exclusive easement for the use of the air space occupied by the Unit as it exists at any particular time and as 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.

4.4 Non-exclusive Use of Common Elements. Non-exclusive easements, to be used and enjoyed in common with the Owners of all Units in the Condominium in such a manner as not to hinder or encroach upon the lawful rights of other Unit Owners, for use of those Common Elements not designated elsewhere herein as Limited Common Elements, including, without limitation, easements for:

(a) the furnishing and maintenance of public utility services to all parts of the real property of the Condominium over, across, in and through the land, Building and other improvements, as the fixtures and equipment therefor now exist and/or may be modified or relocated;

(b) vehicular and pedestrian access over, across, upon, in and through the drives, entries, gates, walks, grounds, and other portions, if any, of the Common Elements as are intended and/or provided for pedestrian and vehicular traffic throughout the Condominium; and

(c) vehicular and pedestrian access over, across, upon, in and through, and for parking upon, the Condominium Property.

4.5 Encroachment. An exclusive easement for the unintentional and non-negligent encroachment by any Unit upon any other Unit or Common Element, or vice versa, for any reason not caused by or resulting from the willful or negligent act of any Unit Owner or Owners, including without limitation, encroachments caused by or resulting from the original

construction of improvements, which exclusive easement shall exist at all times during the continuance of such encroachment as an easement appurtenant to the encroaching Unit or other improvement, to the extent of such encroachment.

4.6 Right to Association Membership. The right to membership in the Association, upon the terms and conditions set forth in Article 5.

ARTICLE 5 CONDOMINIUM ASSOCIATION

5.1 Functions and Duties. The Association shall be responsible for the maintenance, management and operation of the Condominium. Copies of the Articles of Incorporation and Bylaws of the Association are attached hereto and made a part hereof as Exhibits "E" and "F", respectively.

5.2 Membership. The Owner of each Unit shall become a member of the Association automatically upon and simultaneously with receipt of a deed of conveyance of fee title to such Unit or upon conveyance of title by operation of law. Membership in the Association may not be transferred separate and apart from a conveyance of the unit. Membership in the Association shall terminate upon conveyance or transfer of the Unit, whether voluntary or involuntary.

5.3 Voting Rights. There shall be one (1) vote appurtenant to each Unit and the total number of votes in the Association shall equal the total number of Units in the Condominium. If a Unit Owner owns more than one (1) Unit, the Unit Owner shall be entitled to one (1) vote for each unit owned. If a 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.

5.4 Association Management. The Association shall have the power from time to time to enter into agreements with a manager or managing company, and to the extent permitted by law, to delegate maintenance, management, and operational duties and obligations to such manager or management company.

5.5 Right of Access. The Association shall have the irrevocable right of access to each Unit during reasonable hours when necessary for maintenance, repair or replacement of any Common Elements, for making emergency repairs necessary to prevent damage to the Common Elements or to another Unit or Units and to do other work reasonably necessary for the proper maintenance and operation of the Condominium.

5.6 Board of Directors. The business and affairs of the Association shall be managed and governed by a Board of Directors who shall serve in accordance with the Bylaws of the Association. Each of the members of the Board of Directors shall be Members of the Association, or shall be authorized representatives, officers or employees of a corporate Member of the Association.

ARTICLE 6
MAINTENANCE, REPAIRS AND REPLACEMENTS

Responsibility for maintenance, repairs and replacements of Condominium Property and property of Unit Owners located or situated within the Condominium, shall be as follows:

6.1 Units. Each Owner shall maintain, repair and replace, as necessary, all portions of his Unit, including but not limited to the fixtures, equipment and appliances located therein or exclusively serving the same. Each Owner will also keep the balcony, porch or terrace, in an orderly condition and repair or replace any damaged screens, shutters and exterior ceiling fans. All maintenance, repairs and/or replacements, which are the responsibility and obligation of Unit Owners, and which, if not performed or omitted, would affect other Units or Common Elements, shall be performed promptly as the need arises. Notwithstanding the obligation of Unit Owners to perform maintenance, repair and replacement of and in Units, the proceeds of all insurance awards or payments under insurance carried by the Association for loss of or damage to or within Units shall be applied against repairs and replacements to the extent that such award or payments exceed the deductible provisions of such insurance. If a Unit Owner fails to perform promptly his responsibilities of repair, maintenance and replacement, the Association shall be entitled to seek all remedies available at law, including but not limited to the right to take legal action to require the Unit Owner to perform the responsibilities and other relief as set forth within this Section 6, and right of collection for assessments as defined in Section 12. The Association, in addition, shall have irrevocable right of access to each Unit during reasonable hours, when necessary for the maintenance, repair, or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units.

6.2 Common Elements. Except as set forth above in Section 6.1 to the contrary, the Association shall be responsible for maintaining, repairing, replacing and keeping in clean and orderly condition, all of the Common Elements. The Association, at the expense of the Owners of all Units in the Condominium, shall repair any and all incidental damage to Units resulting from maintenance, repairs and/or replacements of or to Common Elements.

6.3 Limited Common Elements. Each Unit Owner shall maintain, repair, replace as necessary and keep in an orderly condition all interior portions of the storage areas which is/are a Limited Common Element appurtenant to that Unit. The Association shall be responsible for maintaining, repairing, replacing, and keeping in clean and orderly condition, any Common Elements designated herein as Limited Common Elements to the extent that the responsibility for the same has not been specifically designated herein as the responsibility of the Owner of the Unit to which such Limited Common Elements are appurtenant. If a Unit Owner fails to perform promptly his responsibilities of repair, maintenance and replacement, the Association shall be entitled to seek all remedies available at law, including but not limited to the right to take legal action to require the Unit Owner to perform the responsibilities or upon the Unit Owner's failure to do so, the Association may at its option after giving the Unit Owner ten (10) days written notice undertake the necessary repairs and all expenses incurred by the

Association shall be at the expense of the Unit Owner, and the Association shall have the right to collect such expenses pursuant to Section 12 of this Declaration. The Association, in addition, shall have the irrevocable right of access to each Unit during reasonable hours, when necessary for the maintenance, repair, or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units.

6.4 Maintenance and Repair Necessitated by Negligence of Unit Owners. A Unit Owner shall be responsible for the expense of any maintenance, repair or replacement of any portion of the Condominium Property rendered necessary by the act, neglect or carelessness of such Unit 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 Association. In addition, the Association shall have all rights and remedies set forth in Section 6.1 above.

6.5 Association Right to Perform Remedial Maintenance. The Association shall have the right, but not the obligation to perform remedial and continuing maintenance to Units and other areas which are the responsibility of the Unit Owner where it has been determined by the Association that the Unit Owner having responsibility for the maintenance of the subject property has failed to properly maintain same in good condition as determined by the Association in its sole discretion. In such event, the Association shall provide written notice to the Unit Owner indicating the failure of maintenance and requesting that such failure be remedied and abated within ten (10) days thereafter. If such failure is not remedied and abated within said time period, in addition to the rights and remedies of the Association set forth in Section 6.1 above, the Association shall have the right, but not the obligation to perform said maintenance and individually charge the Unit Owner for the cost of such maintenance and repair performed by the Association, or its designees and the Association shall have the right of collection pursuant to Section 12.

6.6 Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the Condominium property, the Association will not be liable to the Unit Owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association or caused by the elements of other Owners or persons.

ARTICLE 7 INSURANCE

Insurance shall be carried and kept in force at all times in accordance with the following provisions:

7.1 Duty and Authority of Association to Obtain. The Association shall obtain and keep in force at all times the insurance coverage which it is required hereby to carry and may obtain and keep in force any or all of such other or additional insurance coverage as it is authorized to carry hereby and pursuant to the Condominium Act. All insurance obtained by the Association shall be purchased for the benefit of the Association, the Unit Owners and their

mortgagees. The Owner of each Unit may, at the expense of such Owner, obtain insurance coverage against damage to and loss of the contents of the Unit, personal liability for injury to and death of persons and damage to and loss of personal property of others; provided, that each policy of such insurance purchased by a Unit Owner shall, where such provision is available, provide that the insurer waives its right of subrogation as to any claim or claims against other Unit Owners, the Association, and their respective employees, agents, guests and invitees.

7.2 Required Coverage. The Association shall purchase and carry insurance coverage as follows:

(a) Casualty Insurance. Casualty insurance covering the Building and all other improvements of the Condominium in an amount equal to the maximum insurance replacement value thereof (subject to reasonable deductible clauses) exclusive of excavation and foundation costs, as determined annually by the Board of Directors of the Association, such insurance to afford protection against:

(i) loss or damage by fire or other hazards covered by the standard extended coverage or other perils endorsement;

(ii) such other risks of a similar or dissimilar nature as are or shall be customarily covered with respect to buildings and other improvements similar in construction, location and use, to the Building and all other improvements of the Condominium, including, without limitation, vandalism, malicious mischief, windstorm, water damage and, if available, war risk insurance;

The coverage shall exclude all personal property within any 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.

(b) Comprehensive General Public Liability Insurance. Comprehensive General Public Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) for combined single limited coverage in such forms as shall be required by the Board of Directors of the Association to protect the Association and the Owners of all Units, including, without limitation, hired automobile, non-owned automobile, off-premises employee coverage, water damage and legal liability, with cross-liability, endorsements to cover liability of all Unit Owners as a group to each Unit Owner;

(c) Workers' Compensation Insurance. Workers' Compensation Insurance to meet the requirements of law;

(d) Flood Insurance. Flood Insurance, if the same shall be necessary under the laws of the United States for federally related mortgage loans to be made upon Units;

(e) Fidelity Insurance. Fidelity Insurance covering all officers and employees of the Association and any managing agent who handles Association funds;

(f) Officers' and Directors' Insurance. Officers' and Directors' Insurance in such amounts as the Board may determine from time to time.

(g) Certificates of Insurance. The Association shall obtain, at least annually, Certificates of Insurance indicating the types and amounts of insurance coverages then in existence relative to the Association;

(h) Waiver by Insurer. Wherever obtainable and practical the insurance policies shall waive the insurer's right to: (i) subrogation against the Association and against Unit 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) avoid liability for a loss that is caused by an act of the Board of Directors of the Association, or by a member of the Board of Directors of the Association or by one or more Unit Owners.

7.3 Optional Coverage. The Association shall purchase and carry such other insurance coverage as the Board of Directors of the Association, in its sole discretion, may determine from time to time to be in the best interests of the Association and Unit Owners.

7.4 Premiums. Premiums for all insurance obtained and purchased by the Association shall be paid by the Association. The cost of insurance premiums, and other incidental expenses incurred by the Association in administering and carrying out the provisions of this Section, shall be assessed against and collected from Unit Owners as a Common Expense.

7.5 Assured. All policies of insurance obtained and purchased by the Association shall be for the benefit of the Association, the Owners of Units and their mortgagees, as their interests may appear, and shall provide that all proceeds covering casualty losses shall be paid to the "Insurance Trustee," as herein identified, or to its successor, and the proceeds from insurance against any casualty loss shall be held for the use of the Association, Unit Owners and their respective mortgagees, as their interests may appear, to be applied or distributed in the manner herein provided. The Association is hereby constituted and appointed agent for all Unit Owners and their mortgagees, with authority to negotiate and settle the value and extent of any and all losses covered under any policy of casualty insurance, and the Association is granted full right and authority to execute, in favor of any insurer, a release of liability arising out of any occurrence covered by any policy or policies of casualty insurance and resulting in loss of or damage to insured property.

7.6 Insurer. All insurance policies shall be issued by an insurer duly authorized to do business in Florida. All persons beneficially interested in the insurance coverage obtained, purchased and maintained by the Association shall be bound by the Association's selection of its insurer(s) and the amount of insurance coverage carried and kept in force by the Association.

7.7 Insurance Trustee. The Association shall have the right, but not the obligation, prior to or upon the occurrence of any event causing or resulting in the need for the

same, to designate the Insurance Trustee and all persons beneficially interested in such insurance coverage shall be bound by the Association's selection of the Insurance Trustee.

(a) Qualifications, Rights and Duties. Except as set forth in Section 7.8 hereof, the Insurance Trustee shall be a bank with trust powers doing business in the state of Florida. The Insurance Trustee shall not be liable for the payment of premiums, the renewal of any policy or policies of casualty insurance, the sufficiency of coverage, the form or content of policies, nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds of casualty insurance as are paid and to hold the same in trust for the purposes herein stated, and for the benefit of the Association, Unit Owners and their respective mortgagees, to be disbursed as herein provided. The Association shall pay a reasonable fee to the Insurance Trustee for services rendered hereunder and shall pay such costs and expenses as the Insurance Trustee may incur in the performance of its duties hereunder; such fees and costs to be assessed against and collected from Unit Owners as a Common Expense. The Insurance Trustee shall be liable only for its willful misconduct, bad faith or gross negligence, and then only for such money as may come into the possession of the Insurance Trustee. If and when the Insurance Trustee is required to distribute insurance proceeds to Unit Owners and their mortgagees as their respective interests may appear the Insurance Trustee may rely upon a certificate of the President and Secretary of the Association, executed under oath and provided to the Insurance Trustee upon request; such certificate to certify the name or names of the Owners of each Unit, the mortgagee(s) thereof, and the respective percentages of any distribution which is to be made to such Owner(s) and mortgagee(s), as their respective interests may appear. If and when insurance proceeds are paid to the Insurance Trustee for any casualty loss, the holder(s) of any mortgage or mortgages encumbering a Unit shall not have the right to determine or participate in the determination of repair or replacement of any loss or damage and shall not have the right to elect to apply insurance proceeds to the reduction of indebtedness secured by such mortgage(s), unless the insurance proceeds represent a distribution to the Owner(s) of the Unit and the mortgagee(s) thereof, after such insurance proceeds have been first applied to the repair, replacement or reconstruction of any loss or damage, or unless such casualty insurance proceeds are authorized to be distributed to the Owner(s) of the Unit and the mortgagee(s) thereof by reason of loss of or damage to personal property constituting a part of the Common Elements and as to which a determination is made not to repair, replace or restore such personal property.

7.8 Association as Insurance Trustee. If the total of the funds to be received by the Association from insurance proceeds and assessments against Unit Owners for payment of repair and reconstruction costs is more than Five Hundred Thousand Dollars (\$500,000), or if a majority of affected mortgagees request, then all such sums shall be deposited by the Association with and disbursed by the Insurance Trustee. In all other cases the Association may act as Insurance Trustee and shall hold such sums so assessed and collected and shall disburse the same in payment of the costs of reconstruction and repair as provided in this Article 7.

7.9 Application of Insurance Proceeds. The proceeds of casualty insurance paid to the Association or Insurance Trustee by an insurer for loss or damage to real and/or

personal property upon which the Association carries insurance, shall be applied and paid as follows:

(a) Common Elements Only. The proceeds paid to the Association or Insurance Trustee for loss of or damage to property constituting Common Elements only shall be applied to the repair, replacement or reconstruction of such loss or damage. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements, the excess shall be paid by the Association or Insurance Trustee, as applicable, to the Owners of all Units, and their respective mortgagees, as their interests may appear, in shares or proportions equal to the undivided interests appurtenant to each Unit in the Common Elements. If the insurance proceeds shall be insufficient to pay the cost of the repair, replacement or reconstruction of such Common Elements, the Association shall deposit with the Insurance Trustee, from any Association reserve fund which may have been established, the difference between the total cost of repairing, replacing or reconstructing such loss or damage and the amount of the insurance proceeds. If no such Association reserve fund has been established, or if any such Association reserve fund has been established and is insufficient to pay to such difference, the Association shall assess the amount of the difference against, and collect it from, all Unit Owners as a Common Expense.

(b) Common Elements and Units. The proceeds paid to the Association or Insurance Trustee for loss of or damage to property constituting Common Elements and one or more Units shall be first applied to the repair, replacement or reconstruction of Common Elements, then to the repair, replacement or reconstruction of any Unit or Units in the Building which have been destroyed or damaged. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements and Units, the excess shall be paid by the Association or Insurance Trustee to the Owner(s) of the damaged or destroyed Unit(s) and their respective mortgagees, as their interests may appear, in shares or proportions based upon the undivided interest appurtenant to each Unit in the Common Elements. If the insurance proceeds shall be sufficient to pay for the repair, replacement or reconstruction of the Common Elements but shall be insufficient to pay the cost of the repair, replacement or reconstruction of the damaged or destroyed Unit or Units, the Association shall charge the Owner(s) of the Unit(s) damaged or destroyed for the amount of the difference in the proportion that the amount of damage sustained by each such Unit bears to the total deficit, and upon receipt of payment, deposit such sum with the Association or Insurance Trustee to be applied by the Association or Insurance Trustee toward the total cost of repairing, replacing or reconstructing all of such damaged or destroyed Common Elements and Units. If the insurance proceeds shall be insufficient to pay the cost of the repairs, replacements, or reconstruction of the Common Elements (to which the Association or Insurance Trustee is required first to apply such proceeds before applying any part thereof to the repair, replacement or reconstruction of the Unit or Units), the difference between the total cost of repairing, replacing or reconstructing the Common Elements and the amount of the insurance proceeds shall be charged by the Association against, and collected from all Unit Owners, as a Common Expense, and, in such event, the cost of repairing, replacing or reconstructing the Unit or Units destroyed or damaged shall be charged to the Owner(s) of such damaged or destroyed Unit(s).

(c) Deposits to Association or Insurance Trustee After Damage. Within forty-five (45) days after a loss of or damage to Condominium Property covered by casualty insurance, the Association shall obtain estimates of the cost of repairing, replacing or restoring the same, including the cost of professional fees and any construction bond which the Board of Directors may require. If, from such estimates, it shall appear that the insurance proceeds payable for such loss or damage will be insufficient to pay the cost of such repair, replacement or reconstruction, the additional money required to pay the total cost thereof, whether it is to be paid by one or more Unit Owners, shall be deposited with the Association or Insurance Trustee not later than thirty (30) days from the day on which the Association or Insurance Trustee, as applicable, receives the insurance proceeds.

ARTICLE 8

RECONSTRUCTION OR REPAIR AFTER CASUALTY

Whether, and the manner in which, any or all of the Condominium Property damaged or destroyed by casualty shall be repaired, reconstructed or replaced shall be determined as follows:

8.1 Damage to Units. If the Units to which more than fifty percent (50%) of the Common Elements are appurtenant are found by an engineer selected by the Board of Directors to be untenable as a result of damage by casualty, then the damaged property will not be reconstructed and the Condominium will be automatically terminated unless within one hundred eighty (180) days after the casualty Unit Owners owning a majority or more of the Common Elements agree in writing to such reconstruction. Notwithstanding the foregoing, if the damage could be repaired for One Million Dollars (\$1,000,000) or less, the property shall be reconstructed. If the damage is to Units to which fifty percent (50%) or less of the Common Elements are appurtenant are found by an engineer selected by the Board of Directors to be untenable, then the property will be reconstructed, unless within one hundred eighty (180) days after the casualty Unit Owners owning a majority or more of the Common Elements agree in writing to terminate the Condominium, as elsewhere provided in the Declaration or the Florida Condominium Act.

8.2 Certificate. The Insurance Trustee may rely upon a certificate executed by the President and Secretary of the Association to determine whether or not damaged or destroyed Condominium Property shall be repaired or reconstructed.

8.3 Plans and Specifications. Repair or reconstruction of Common Elements shall be substantially in accordance with the plans and specifications pursuant to which the same was originally constructed; provided that the Board of Directors of the Association may authorize reasonable variations from the original plans and specifications as may appear to them to be necessary or desirable, or if required by applicable building code, ordinances or laws in existence upon the date of the proposed repairs or reconstruction. Repair or reconstruction of a Unit shall be substantially in accordance with the plans and specifications pursuant to which the same was originally constructed; provided that the Board of Directors, at the request of the Unit Owner, may authorize reasonable variations from the original plans and specifications upon

receipt by the Association from the Unit Owner of evidence that the Unit Owner will comply with the obligations set forth in Section 8.4. The Association will, upon request, furnish the Unit Owner with the original plans and specifications for the Unit to the extent such original plans and specifications are reasonably available to the Association.

8.4 Responsibility. If the damage or destruction shall be limited only to one or more Units for which the responsibility of maintenance and repair is that of the affected Unit Owners, then such Unit Owners shall be responsible for carrying out the repair or reconstruction thereof. In all other instances of damage or destruction, the Association shall be responsible for carrying out the repair and reconstruction thereof.

8.5 Construction Funds. All funds for the payment of repair and reconstruction costs, consisting of insurance proceeds and/or funds collected by the Association from Unit Owners, shall be disbursed toward payment of such costs in the following manner:

(a) Collection and Disbursement Agent. Insurance collected on account of a casualty, and the sums assessed against and collected from Unit Owners by the Association and deposited with the Association or Insurance Trustee, as applicable, shall constitute a construction fund which shall be disbursed in payment of the costs of repair and reconstruction in the following manner:

(i) Units. Upon confirmation by the Association, and notice to the Insurance Trustee, if such Trustee has been designated under this Article, that the Association has received from the affected Unit Owner(s) evidence reasonably acceptable to the Association that repair and reconstruction as required herein has been or will be performed, the portion of insurance proceeds representing damage for which the responsibility of repair and reconstruction is upon one or more Unit Owners shall be paid by the Association or Insurance Trustee to the affected Unit Owners and, if any of such Units are mortgaged, to the affected Unit Owners and their mortgagees jointly.

(ii) Common Elements - Minor Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than Five Hundred Thousand Dollars (\$500,000), then the construction fund shall be disbursed in payment of such cost upon the order of the Association; provided, however, that upon request to the Association or Insurance Trustee, as applicable, by a mortgagee which is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided for the reconstruction and repair of major damage.

(iii) Common Elements - Major Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is more than Five Hundred Thousand Dollars (\$500,000), then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association and upon approval of an

architect registered to practice in Florida and employed by the Association to supervise the work.

(iv) Surplus. It will be presumed that the first monies disbursed in payment of costs of reconstruction and repair are from insurance proceeds. If there is a balance in the construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance will be distributed to the beneficial Owners of the fund in the manner elsewhere herein stated; except, however, that the part of a distribution to a beneficial Owner which is not in excess of assessments paid by such Owner into the construction fund shall not be made payable to any mortgagee.

(v) Certificate. Notwithstanding anything to the contrary contained herein, the Insurance Trustee will not be required to determine whether or not sums paid by Unit Owners upon assessments are to be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Association or upon approval of an engineer, an architect or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine the payee nor the amount to be paid, nor to determine whether surplus funds to be distributed are less than the assessments paid by Owners. Instead, the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to any or all of such matters and stating that the sums to be paid are due and properly payable and stating the name of the payee and the amount to be paid; provided that, when a mortgagee is herein required to be named as payee, the Insurance Trustee shall also name the mortgagee as payee and when the Association, or a mortgagee which is the beneficiary of an insurance policy, the proceeds of which are included in the construction fund, so requires, the approval of such disbursement by an architect or engineer named by the Association, shall be first obtained by the Association.

ARTICLE 9

CONDEMNATION

9.1 Deposit of Awards with Insurance Trustee. The taking of Condominium Property by condemnation shall be deemed to be a casualty, and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty and shall be deposited with the Insurance Trustee. Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Insurance Trustee; and in the event of failure to do so, in the discretion of the Board of Directors, the Association may charge a defaulting Unit Owner for the amount of his award, or the amount of that award shall be set off against the sums hereafter made payable to that Owner.

9.2 Determination Whether to Continue Condominium. Whether the Condominium will be continued after condemnation will be determined in the manner provided

for determining whether damaged property will be reconstructed and repaired after casualty. For this purpose, the taking by condemnation shall be deemed to be a casualty.

9.3 Disbursement of Funds. If the Condominium is terminated after condemnation, the proceeds of the awards and special assessments will be deemed to be Condominium Property and shall be owned and distributed in the manner provided for insurance proceeds if the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced, the Owners of condemned Units will be made whole and the property damaged by the taking will be made useable in the manner provided below. The proceeds of the awards and special assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds by the Insurance Trustee after a casualty.

9.4 Unit Reduced but Tenantable. If the taking reduces the size of a Unit and the remaining portion of the Unit can be made tenantable, as determined by an engineer selected by the Board of Directors, the award for the taking of a portion of the Unit shall be used for the following purposes in the order stated and the following changes shall be effected in the Condominium:

(a) Restoration of Unit. The Unit shall be made tenantable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be assessed against the Owner of the Unit.

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

(c) Adjustment of Shares in Common Elements. If the number of Units in the Condominium is reduced by the taking, the share in the Common Elements appurtenant to all Units shall be recalculated proportionately by the Association.

9.5 Unit Made Untenantable. If the taking is of the entire Unit or so reduces the size of a Unit that it cannot be made tenantable, as determined by an engineer selected by the Board of Directors, the award for the taking of the Unit shall be used for the following purposes in the order stated and the following changes shall be effected in the Condominium:

(a) Payment of Award. The award shall be paid first to all Institutional Mortgagees in an amount sufficient to pay off their mortgages due from those Units which are not tenantable; and then jointly to the Unit Owners and mortgagees of Units not tenantable in an amount equal to the fair market value of the Unit immediately prior to the taking and with credit being given for payments previously reserved for Institutional Mortgagees; and the balance, if any, to repairing and replacing the Common Elements. The Association's determination of fair market value of a Unit shall be deemed a conclusive presumption of fair market value of such Unit.

(b) Addition to Common Elements. The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in condition for use by all of the Unit Owners in the manner approved by the Board of Directors; provided that if the cost of the work shall exceed the balance of the fund from the award for the taking, the work shall be approved in the manner elsewhere required for further improvement of the Common Elements.

(c) Adjustment of Shares in Common Elements. The shares in the Common Elements appurtenant to the Units that continue as part of the Condominium shall be adjusted in an appropriate manner by the Association.

(d) Assessments. If the amount of the award for the taking is not sufficient to pay the fair market value of the condemned Unit to the Owner and to renovate the remaining portion of the Unit for use as a part of the Common Elements, the additional funds required for those purposes shall be raised by assessments against all of the Unit Owners who will continue as Owners of Units after the changes in the Condominium effected by the taking. The assessments shall be made in proportion to the shares of those Owners in the Common Elements after the changes effected by the taking.

(e) Arbitration. If the fair market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and mortgagees of the Unit and the Association within thirty (30) days after notice by either party, the value shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two (2) appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit; and a judgment of specific performance upon the decision rendered by the arbitrators may be entered in any court of competent jurisdiction. The cost of arbitration proceedings shall be assessed against all Unit Owners in proportion to the shares of the Owners in the Common Elements as they exist prior to the changes effected by the taking.

9.6 Taking of Common Elements. Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements useable in the manner approved by the Board of Directors of the Association; provided, that if the cost of the work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner elsewhere required for further improvement of the Common Elements. The balance of the awards for the taking of Common Elements, if any, shall be distributed to the Unit Owners in the shares in which they own the Common Elements after adjustment of these shares on account of the condemnation. If there is a mortgage on a Unit, the distribution shall be paid jointly to the Owner and the mortgagees of the Unit.

9.7 Amendment of Declaration. The changes in Units, in the Common Elements and in the Ownership of the Common Elements that are affected by condemnation shall be evidenced by an Amendment of the Declaration of Condominium that need be approved only by a majority of all Directors of the Association.

ARTICLE 10
OWNERSHIP AND USE RESTRICTIONS

The use of the Condominium Property shall be in accordance with the following provisions so long as the Condominium exists:

10.1 Units. Each Unit shall be used as a residence only, except as otherwise herein expressly provided. A Unit may only be occupied by the following persons, and such persons' families and guests: (i) the individual Unit Owner, or (ii) permitted occupants under an approved lease or sublease of the Unit (as described below), as the case may be. Occupants of an approved leased or subleased Unit must be (i) an individual lessee or sublessee and such persons' families and guests. Under no circumstances may more than one (1) family reside in a Unit at one (1) time. "Families" or words of similar import used herein shall be deemed to include spouse, parents, parents-in-law, brothers, sisters, children, grandchildren and unmarried couples. In no event shall occupancy exceed two (2) persons per bedroom. The Board of Directors shall have the power to authorize occupancy of a Unit by persons in addition to those set forth above.

10.2 Entity Ownership. If the purchaser or lessee of a Unit is a corporation, trust or entity other than an individual person, the person who executes the lease or contract to purchase shall be the primary occupant of the Unit unless the purchaser or lessee designates otherwise. The approval of such purchase or lease shall be conditioned upon the approval by the Condominium Association, as applicable, of the primary occupant and of all other occupants of the Condominium Unit. Such designated primary occupant shall not be changed more often than once per year. The one (1) year period shall begin on the date of the written approval of the primary occupant and shall end one (1) year from and after such date. All other occupants shall be considered as either guests or lessees, as may be appropriate, who shall be subject to all use and occupancy restrictions provided in the Declaration and in the rules and regulations of all governing associations. All such approvals shall be made on forms supplied by the Condominium Association, as applicable.

10.3 Common Elements. The Common Elements and Limited Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Units.

10.4 Nuisances. No immoral, noxious, offensive or unlawful activity shall be carried on within the Condominium Property nor shall anything be done therein or thereon which may be or become an annoyance to Unit Owners, their guests or invitees. No nuisance shall be permitted within the Condominium Property nor shall any use or practice be permitted which is or becomes a source of annoyance to Unit Owners or which interferes with the peaceful use and possession thereof by the Unit Owners. Additionally, nothing shall be done or maintained on any Unit, or upon any Common Elements, Limited Common Elements or any other portion of the Condominium Property, which will increase the rate of insurance on any Unit, or the Common Elements, Limited Common Elements or other portions of the Condominium Property, or result in the cancellation thereof. Nothing shall be done or

maintained in any Unit, upon Common Elements, Limited Common Elements or any other portion of the Condominium Property, which will be in violation of any law, ordinance, statute, regulation, or rule of any governmental authority having jurisdiction over the Condominium Property or portion thereof or in violation of any provision of this Declaration, the Articles or Bylaws as they may be amended from time to time or in violation of any rules and regulations which may be promulgated by the Board of Directors of the Association from time to time, as elsewhere provided herein. No waste shall be committed in any Unit, the Common Elements, the Limited Common Elements or any other portion of the Condominium Property.

10.5 Leasing. In addition to any requirements as set forth in this Declaration, leasing of Units shall be subject to the prior written approval of the Association.

No lease of a Unit shall be approved, and no tenant shall be permitted to occupy such Unit, while the Unit Owner thereof is in arrears in the payment of any Assessment or Special Assessment unless such Owner and tenant shall first (i) agree in writing and deliver to the Association a document, the form of which shall be available from the Association, stating that the full amount of the rent to be paid by such tenant will be paid directly to the Association (or its designated managing agent) to be applied against the unpaid Assessment(s) or Special Assessment(s), and (ii) deliver the rent to be paid by such tenant pursuant to said lease to the Association (or, at its direction to its managing agent). In the event the amount of such rent exceeds the aggregate amount of all unpaid Assessment(s) and Special Assessment(s) outstanding against said Unit, the balance not required to satisfy said deficiency shall be remitted by the Association to such Unit Owner.

When a Unit is leased, a tenant shall have all the use rights in the Condominium Property and those Common Elements otherwise readily available for use generally by Unit Owners, and the Unit Owner of the leased Unit shall not have such rights, except as a guest, unless such rights are waived in writing by the tenant. Nothing herein shall interfere with the access rights of the Unit Owner as a landlord, pursuant to Chapter 83, Florida Statutes. The Association shall have the right to adopt rules to prohibit dual usage by a Unit Owner and a tenant of Condominium Property and Common Elements otherwise available for use generally by Unit Owners.

All leases shall provide that the Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, applicable rules and regulations or other applicable provisions of any agreement, document or instrument governing the Condominium. No portion of a Unit (other than an entire Unit) may be rented. The duration of a lease must be for a period of not less than one (1) month. The Unit Owner and the tenant will be jointly and severally liable to the Association for any damage to Condominium Property and to pay any claim for injury or damage to property caused by the negligence of the tenant.

10.6 Parking.

(a) Parking areas are solely for those vehicles authorized by this Declaration and the rules and regulations of the Association, as promulgated and amended from time to

time. No vehicle prohibited by any of the aforementioned rules and regulations or this Declaration shall be permitted to be parked or stored at any place on the Condominium Property. No vehicle which cannot operate on its own power shall be permitted to remain on the Condominium Property for more than twenty-four (24) hours.

(b) No vehicle maintenance or repairs shall be performed on the Condominium Property, except for emergency repairs.

(c) Vehicles shall only be washed in designated vehicle wash areas.

10.7 Antennae. No aerial or antenna shall be erected or maintained on or about the exterior of any Unit without prior Association approval which shall not be unreasonably withheld.

10.8 Pets. The keeping or bringing of pets into Units and Condominium Property is governed by the Association. Owners maintaining pets on the Condominium Property shall be responsible for, and bear the expense of, any damage to persons or property resulting therefrom. An owner may keep not more than one (1) household pet within his Unit.

10.9 Rules and Regulations. Reasonable rules and regulations concerning the use of the Condominium Property may be made and amended from time to time by a majority vote of the Board. The Board shall have the power to grant variances to the rules and regulations from time to time. Copies of such regulations and amendments thereto shall be furnished by the Association to all Unit Owners and residents of the Condominium upon request.

10.10 Selling and other Transfer of Interest of Units. No Unit Owner may sell, convey, lease or otherwise transfer an interest in a Unit unless all sums due the Association shall be paid in full and an estoppel letter in recordable form to such effect shall have been received by the Unit Owner. Within fifteen (15) days after receiving a written request therefor from a Purchaser, Unit Owner or Mortgagee of a Unit, the Association shall provide a certificate, signed by an officer or agent of the Association, stating all assessments and other monies owed to the Association by the Unit Owner with respect to his Unit. Any person other than the Unit Owner who relies upon such certificate, shall be protected thereby.

10.11 Transfer Fees. The Association has the right to charge an application fee in reviewing the application for a sale, mortgage, lease, or other transfer of a Unit as prescribed by Chapter 718, Florida Statutes. The Association shall also have the right, on a case by case basis, to require that a prospective lessee place a security deposit, in an amount not to exceed the equivalent of one (1) month's rent, into an escrow account maintained by the Association. The security deposit shall protect against damages to the Common Elements or Association Property. Payment of interest, claims against the deposit, refunds, and disputes under this paragraph shall be handled in the same fashion as provided in part II of Chapter 83, Florida Statutes.

ARTICLE 11
COMPLIANCE AND DEFAULT

Each Unit Owner shall be governed by and shall comply with the terms of the Declaration of Condominium, the Articles of Incorporation and Bylaws of the Association, and any and all rules and regulations adopted pursuant thereto, as they may be amended from time to time. Failure of the Unit Owner to comply therewith shall entitle the Association or other Unit Owners to the following relief in addition to the remedies provided by the Condominium Act:

11.1 Remedies. The Association shall be entitled to all rights and remedies provided by this Declaration of Condominium, the Articles of Incorporation, the Bylaws, any and all rules and regulations adopted pursuant thereto, the Condominium Act and/or Florida law.

11.2 Costs and Attorneys Fees. In any proceeding arising because of an alleged failure of a Unit Owner to comply with the terms of the Declaration, the Articles of Incorporation and Bylaws of the Association, and any and all rules and regulations adopted pursuant thereto, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorneys' and legal assistant's fees (at all pre-trial, trial, appellate and post-judgment proceedings).

11.3 No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation and Bylaws of the Association, or the rules and regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

ARTICLE 12

ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT

The Association has been granted the right to make, levy and collect Assessments against the Owners of all Units and said 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 Association Assessments and the payment of the costs and expenses of operating and managing the Condominium.

12.1 Determination of Assessments. Assessments by the Association against each Owner of a Unit and his Unit shall be the percentage share of the total Assessments to be made against all Owners of Units and their respective Units as is set forth in the Schedule attached hereto and made a part hereof as Exhibit "D". Should the Association become the Owner of any Unit(s), the Assessment which would otherwise be due and payable to the Association by the Owner(s) of such Unit(s) shall be apportioned and the Assessment therefor levied ratably among the Owners of all Units which are not owned by the Association, based

upon their proportionate interests in the Common Elements exclusive of the interests therein appurtenant to any Unit or Units owned by the Association.

12.2 Time for Payment. The Assessment levied against the Owner of each Unit and his Unit shall be payable in quarterly, monthly, or such other installments and at such time as shall from time to time be fixed by the Board.

12.3 Annual Budget. The Board shall, in accordance with the Bylaws of the Association, establish, to the extent necessary, 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, 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, copies thereof shall be delivered to each Unit Owner, and the Assessment and use fees, respectively, for the year shall be based upon such budgets; provided, that failure to deliver a copy of the budgets to a Unit Owner shall not affect the liability of such Owner for such Assessment or use fee. Should the Board at any time and from time to time determine, in the sole discretion of the Board, that the Assessments or use fees 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 shall have the authority to levy such additional Assessments or use fees as it shall deem necessary. If such additional Assessments or use fees are levied, written notice describing the specific purpose or purposes of the Assessment or use fee will be sent or delivered to each Unit Owner. The funds collected pursuant to such additional Assessments or use fees shall be used only for the specific purpose or purposes set forth in such notice, or returned to the Unit Owners. However, upon the completion of such specific purpose or purposes, any excess funds shall be considered Common Surplus.

12.4 Special Assessments. The Association, through its Board of Directors, shall have the power and authority, from time to time, to levy and collect Special Assessments from each Owner for the following purposes: the acquisition of real or personal property by the Association; payment, in whole or in part, of the cost of construction of capital improvements to the Condominium Property; the cost of construction, reconstruction, unexpected repair or replacement of a capital improvement, including the necessary fixtures and personal property related thereto; the cost of maintenance or repair of any property which the Association is obligated to maintain hereunder; Common Expenses, if funds are not otherwise available therefor from Assessments or reserves; the expense of indemnification of each director and officer of the Association; and such other purposes deemed appropriate by the Board of Directors. All notices of Special Assessments from the Association to Owners shall designate the amount thereof and the date when due. All Special Assessments shall be levied on the same basis as Assessments described in Section 12.1 of this Declaration, unless otherwise determined by the Board, and shall be collectable in such manner as the Board of Directors shall determine. The funds collected pursuant to a Special Assessment shall be used only for the specific purpose or purposes set forth in such notice. However, upon completion of such specific purpose or purposes, any excess funds will be considered Common Surplus, or may, at the discretion of the Board, be applied as a credit towards future Assessments.

12.5 Reserve Funds. Unless waived in accordance with applicable law, the Board, 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 Units, as required by Section 718.112, Florida Statutes.

12.6 Reserves. The Board, when establishing each annual budget may, when deemed necessary or desirable, include therein a sum or sums to be collected and maintained as reserves to provide a measure of financial stability during periods of special stress when such sums may be used to meet deficiencies from time to time existing as a result of delinquent payment of Assessments by Owners of Units, as a result of emergencies or for other reason placing financial stress upon the Association. The annual amount allocated to such reserves 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 Units. Upon accrual in the reserves 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 Units as a contribution to such reserves, unless it shall be reduced below the twenty-five percent (25%) level, in which event, the annual Assessment against each Owner and/or Unit may be increased to restore the reserves to an amount which will equal twenty-five percent (25%) of the current annual amount of said Assessment. The Unit Owners may call a special meeting of the Association or the Unit Owners may raise issues pertaining to the reserves at a general meeting of the Association as provided for in the Bylaws. Upon the affirmative vote of a majority of the Unit Owners, the Association may elect to reduce the levels of the reserves below those stated above.

12.7 Use of Association Funds. All monies collected by the Association shall be treated as the separate property of the Association. Such monies may be applied by the 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 Association by virtue of this Declaration, the Articles of Incorporation and Bylaws. All the monies for annual Assessments paid to the Association by any Unit Owner may be commingled with monies paid to the Association by other Unit Owners. All funds and other assets of the 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 Association. No member of the 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 Unit.

12.8 Delinquency or Default. The payment of any Assessment or installment thereof due to the Association shall be in default if not paid to the 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 Association shall have the right to accelerate future Assessments for the remainder of the budget year which would not otherwise be due and payable.

12.9 Personal Liability of Unit Owner. The Owner(s) of each Unit shall be personally liable, jointly and severally, as the case may be, to the Association for the payment of all Assessments, regular or Special, interest on delinquent Assessments (regular or Special) or installments thereof as above provided, and for all costs of collecting the Assessments and interest thereon, including reasonable attorneys' and legal assistants' fees (at all pretrial, trial, appellate and post-judgment proceedings), whether suit be brought or not, levied or otherwise coming due while such person(s) or entity own(s) a Unit.

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

12.11 Lien for Assessment. The Association is hereby granted a lien upon each Unit and its appurtenant undivided interest in the Common Elements, which lien shall and does secure the monies due for all: (i) Assessments levied against the Unit and the Owner(s) thereof by the Association, and (ii) interest, if any, which may become due on delinquent Assessments owing to the Association and (iii) costs and expenses, including reasonable attorneys' and legal assistants' fees (at all pre-trial, appellate and post-judgment proceedings), which may be incurred by the Association incident to the collection of Assessments and in enforcing its lien upon the Unit and its appurtenances. The lien granted to the Association may be established and foreclosed in the Circuit Court in and for the County, and in any suit for the foreclosure of said lien, the Association shall be entitled to rental from the Owner of any Unit, subject to the approval of such Court, from the date on which the payment of any Assessment or installment thereof became delinquent and shall be entitled to the appointment of a receiver for said Unit. The Association may enforce its right to collect rental income from Units in any proceeding at law or in equity, including, but not limited to garnishment or the appointment of a receiver. The lien of the Association shall also secure all advances for taxes, and payments on account of superior mortgages, liens or encumbrances made by the 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.

12.12 Recording and Priority of Lien. The lien of the Association shall be effective from and relate back to the date of recording in the Public Records of the County of this Declaration. However, as to first mortgages of record, the lien is effective from and after the recording of a claim of lien as hereinafter described. The Association shall file a claim of lien stating the Unit encumbered thereby, the name of the record Owner, the name and address of the Association, the amount due to the 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 by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The lien of the Association shall be subordinate in the following order of priority to (a) ad valorem tax liens; and (b) the lien of any first mortgage held by an Institutional Mortgagee, subject, however, to the liability of such mortgagee for assessments as

provided in Section 718.116 Florida Statutes. However, the lien of the Association for tax or special Assessment advances made by the Association, where any appropriate taxing authority levies the same against the Condominium as an entirety instead of against each Unit and its appurtenant undivided interest in Common Elements, shall be prior in right and dignity to the lien of all mortgages, liens and encumbrances, whether or not recorded prior to the Association's claim of lien therefor. The Association's claim of lien for collection of such portion of any tax or special Assessment shall specifically designate that the same secures an Assessment levied pursuant to this Declaration.

12.13 Effect of Foreclosure or Judicial Sale. In the event any person, firm or corporation shall acquire title to any Unit and its appurtenant undivided interest in Common Elements by virtue of any foreclosure or judicial sale or any transfer in lieu thereof, then such person, firm or corporation so acquiring title shall only be liable and obligated for Assessments and/or Special Assessments of the Association as provided in the Condominium Act. Any Assessments and/or Special Assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all Owners of all 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 or Special Assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

12.14 Effect of Voluntary Transfer. When the Owner of any Unit proposes to lease, sell or mortgage the same in compliance with other provisions of this Declaration, the Association, upon written request of the Owner of such Unit, shall furnish within fifteen (15) days after receipt of such written request, to the proposed lessee, purchaser or mortgagee, a statement stating all Assessments and Special Assessments and other monies which are due and payable to the Association by the Owner of such Unit with respect to the Unit. Such statement shall be executed by any officer of the Association and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

In the event that a Unit is to be leased, sold or mortgaged at the time when payment of any Assessment or Special Assessment against the Unit Owner and the Unit which is due to the Association is in default (whether or not a claim of lien has been recorded by the Association), then the rent, sale proceeds or mortgage proceeds, as the case may be, shall be applied by the lessee, purchaser or mortgagee in the following order: first to payment of any then delinquent Assessment or Special Assessment or installment thereof due to the Association and second, payment of the balance of such rent, proceeds of sale or mortgage to the Owner of the Unit responsible for payment of such delinquent Assessment or Special Assessment.

In any voluntary transfer of title of a Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments and Special 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.

12.15 No Election of Remedies. All rights, remedies and privileges granted to the Association or any Unit Owner pursuant to any of the Condominium Documents, shall be

deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies, or privileges as may be available to such party at law or in equity.

ARTICLE 13
REGISTRY OF OWNERS AND INSTITUTIONAL MORTGAGEES

13.1 Register. The Association shall at all times maintain a register of the names of the Owners and Institutional Mortgagees of all Units. Upon the transfer of title to any Unit, the transferee shall notify the Association in writing of his interest in such Unit together with recording information identifying the instrument by which such transferee acquired his interest in the Unit. The Owner of each Unit encumbered by an Institutional Mortgage shall notify the Association of the name and address of the Institutional Mortgagee, the amount of such mortgage, or mortgages, and the recording information identifying the same. The holder of any Institutional Mortgage encumbering a Unit may notify the Association of any such mortgage(s), and upon receipt of such notice, the Association shall register in its records all pertinent information pertaining to the same.

13.2 Notices to Lenders. Upon written request to the Association, identifying the name and address of the Institutional Mortgagee of an Institutional Mortgage encumbering a Unit and the Unit number or address, any such Institutional Mortgagee will be entitled to timely written notice of:

- (a) any condemnation loss or casualty loss which affects a material portion of the Condominium or any Unit on which there is a first mortgage held, insured, or guaranteed by such Institutional Mortgagee, as applicable;
- (b) any delinquency in the payment of Assessments or Special Assessments or charges owed by an owner of a Unit subject to a first mortgage held by such Institutional Mortgagee which remains uncured for a period of sixty (60) days;
- (c) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- (d) any proposed action which would require the consent of a specified percentage of mortgage holders.

ARTICLE 14
ALTERATIONS AND IMPROVEMENTS

Any alterations and improvements to the Condominium Property shall comply with the following:

14.1 Architectural Control. The Association and every person or entity who acquires title to a Unit acknowledges that the Association is responsible for reviewing and

approving all plans and specifications for alterations, modifications and improvements of existing buildings on the Condominium Property. The Association and every person or entity who acquires title to a Unit further acknowledges that no improvements, modifications, alterations or changes may be made, in any manner to the Units, the Limited Common Elements, or any Common Elements on the Condominium Property subject to this Declaration without the prior written approval of the Association, which approval or disapproval shall be final.

All construction on the Condominium shall be subject to such rules, regulations, design and construction standards, and setback and building requirements, as may be promulgated by the Board of Directors of the Association from time to time.

14.2 Alterations by Unit Owners. No Unit Owner shall, without first having obtained the written consent of the Board of Directors of the Association, and all required governmental approvals and permits, make any alteration, replacement, decoration, enclosure, or addition to the Common Elements (including any Limited Common Element appurtenant to a Unit) or any exterior portion of the Building (whether a part of a Unit or the Common Elements), except for replacement of screening or glass in a window or glass door contained in a Unit with screening or glass similar to the material that is being replaced. Without limiting the generality of the foregoing, and as examples only, no Unit Owner shall, without having first obtained the prior consent of the Board of Directors:

(a) change, modify or remove, in whole or in part, replace, reroute, or otherwise affect any column, wall or partition, pipe, duct, wire or conduit, or obstruct any easement herein provided for;

(b) change, modify or otherwise affect in any manner any mechanical, electrical, plumbing, telecommunication, architectural or structural system or element of the Building;

(c) remove, or change the style, pattern, material, texture or outside color of any door, window, screen, exterior ceiling fan, fixture or equipment in or on an exterior of a Unit or Building wall;

(d) cover, from the inside or outside, the glass or other transparent or translucent material in any exterior door or window with, or apply or affix thereto, any material or substance which shall render the same opaque or change the exterior color thereof, except interior draperies, curtains, shades or shutters which are lined, backed, covered or painted on the side visible from the exterior with a neutral color or material, any and all of which shall conform to Building standards from time to time promulgated by the Board of Directors;

(e) affix to or over any exterior door or window, or otherwise install on the exterior of any Unit or the Building, any storm or hurricane shutter which has not been approved by the Association or any awning or any protective or decorative panel, paneling, trim, enclosure, fixture, or appliance;

(f) otherwise change, modify or alter the exterior of any Unit or Building, including the flooring of any balcony or terrace, so that it thereby differs in appearance from any other Units of the same type; or

(g) permit any workman, deliveryman, or serviceman access to the Building, except with prior scheduling with the Association or management office and subject to rules and regulations of the Association as may be amended from time to time.

14.3 Requests for Approval. All requests by Unit Owners for approval of alterations or additions shall be submitted to the Board of Directors in writing together with (i) three (3) copies of such plans and specifications and (ii) such reasonable fee as from time to time may be fixed by the Board of Directors to defray the expenses of reviewing such requests. The Board of Directors of the Association shall have a period of forty-five (45) days after the date of its receipt of any such request within which to approve or disapprove the same in its sole discretion. Approval by the Board may include a consideration of aesthetics and any other matters as the Board may decide. In no manner shall such approval be interpreted as a representation by the Board that such plans are in accordance with building, zoning or any other applicable laws. Any Unit Owner making an addition, alteration, or improvement shall be deemed to have agreed to indemnify and hold the Association and all other Unit Owners harmless from all damages and liability which results from such addition, alteration or improvement. In the event any Unit Owner performs any alterations, improvements, or additions without having obtained the consent of the Board of Directors, the Association shall also have all remedies provided by the Condominium Act, this Declaration and applicable law including the right to seek injunctive relief.

14.4 Ownership of Contiguous Units. Any Unit Owner owning two (2) or more horizontally or vertically contiguous Units may create openings in or remove or alter the boundary walls or slabs between such Units in such a manner as not to interfere with or encroach upon any other Units or Common Elements; provided that any such construction by the Unit Owner shall be upon the following terms and conditions:

(a) The Unit Owner and all record owners of liens on the Unit shall join in the execution of an amendment to this Declaration, which amendment must also be approved by a majority of total voting interests of the Association;

(b) The Unit Owner agrees to indemnify and hold harmless the Association from and against any and all costs, expenses, damages or liabilities (including any damages or liabilities arising from damage to property or death or injury to persons) which the Association may suffer or to which the Association may be exposed as a result of the construction and maintenance of such openings in or alterations to the boundary walls or slabs;

(c) Prior to the vesting of title to any of such contiguous Units in an Owner who is not vested with title to all such contiguous Units, the Unit Owner who is vested with title to all such contiguous Units will restore such boundary walls or slabs to the location and condition existing immediately prior to any opening, removal or alteration of the boundary walls or slabs. If the Unit Owner fails to perform such restoration, the Association may perform the restoration and charge the affected Units and Unit Owner for the cost thereof.

14.5 Alterations by the Association. The Association shall not make any alteration of, addition to, or expansion of the Common Elements which requires the expenditure of more than Ten Thousand Dollars (\$10,000), unless the alteration, addition, or expansion has also been approved by a majority of all the Unit Owners of the Condominium. The cost of all

such alterations, improvements and/or additions shall be a Common Expense of the Condominium.

14.6 Compliance with Laws and Regulations; Warranties. All additions, alterations and approvals shall be made in compliance with all applicable governmental laws and regulations and all zoning and building code regulations. All work shall be designed and performed by properly licensed architects and contractors, and in such a manner that the structural integrity of the Building is not adversely affected.

ARTICLE 15 TERMINATION AND MERGER

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

15.1 Destruction. In the event it is determined in the manner provided in Article 8 that the improvements shall not be reconstructed because of total destruction, major damage or condemnation, the Condominium plan of ownership will be thereby terminated without agreement.

15.2 Agreement. The Condominium may be terminated by the approval in writing of all of the Owners of Units in the Condominium, and by all record holders of mortgages upon Units therein owned by Institutional Mortgagees and other mortgagees approved by the Association. If the proposed termination is submitted to a meeting of the members of the Association, the notice of which meeting gives notice of the proposed termination, and if the approval of the Owners of Units to which not less than eighty percent (80%) of the Common Elements are appurtenant, and of the record Owners of all mortgages upon Units in the Condominium owned by the Association, are obtained not later than thirty (30) days from the date of such meeting, then the approving Owners, through the Association, shall have an option to buy all of the Units of the other Owners for the period ending on the sixtieth (60th) day from the date of such meeting. The vote of those Owners approving such termination shall be irrevocable until the expiration of the option, and if the option is exercised, the vote shall be irrevocable. Any person voting against termination may, within fifteen (15) days from the date the vote was taken, change his vote to be in favor of such termination. Such option shall be upon the following terms:

(a) Exercise of Option. The option shall be exercised by delivery or mailing by certified mail to each of the record Owners of the Units to be purchased of an agreement to purchase signed by the record Owners of Units who will participate in the purchase. Such agreement shall indicate which Units will be purchased by each participating Owner and shall agree to purchase all of the Units owned by Owners not approving the termination, but the agreement shall affect a separate contract between each seller and his purchaser.

(b) Price. The sale price for each Unit shall be the fair market value determined by agreement between the seller and purchaser within thirty (30) days from the delivery or mailing of such agreement, and in the absence of agreement as to price, it shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two (2) appraisers appointed by the American

Arbitration Association who shall base their determination upon an average of their appraisals of the Unit; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

(c) Payment. The purchase price shall be paid in cash.

(d) Closing. The sale shall be closed within thirty (30) days following the determination of the sale price.

15.3 Certificate. The termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its President and Secretary certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the Public Records of the County.

15.4 Shares of Owners After Termination. After termination of the Condominium the Unit Owners shall own the Condominium Property and all assets of the Association as tenants in common in undivided shares, and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the Unit Owners. Such undivided shares of the Unit Owners shall be the same as the undivided shares in the Common Elements appurtenant to the Owners' Units prior to the termination as set forth in Exhibit "D".

15.5 Amendment. This Section shall not be amended without consent of at least eighty percent (80%) of the Units and of the holders of at least eighty percent (80%) of the mortgages on Units.

15.6 Merger. In the event there is proposed a merger of BEACHWALK CONDOMINIUM with another condominium(s), such merger may only occur with the prior approval of one hundred percent (100%) of the voting interests of all Unit Owners and approval of all record owners of liens on all Condominium Units. Such approval must include both the merger and the resulting modification of the appurtenances to the Units and changing of proportion or percentage share by which the Owners of the Condominium Parcels share Common Expense and Common Surplus. In the event of such a merger, there shall be recorded a new or amended Articles of Incorporation, Declaration and Bylaws, evidencing the creation of the merged condominium.

ARTICLE 16 AMENDMENT

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

16.1 Amendment by the Association.

(a) Proposal. Amendments to this Declaration may be proposed by the Board of Directors by resolution adopted by a majority vote of the Directors present at any regular or special meeting of the Board at which a quorum is present or, in the alternative, by a written instrument signed by a majority of the Board, or by the Owners of Units to which not less than twenty-five percent (25%) of the Common Elements are appurtenant, whether by vote of such

Owners as members of the Association at a special or regular meeting of the members or by written instrument signed by them. Any amendment to this Declaration so proposed by the Board or members of the Association shall be transmitted to the President of the Association, or, in the absence of the President, to a Vice President or other acting chief executive officer.

(b) Notice. Notice of the subject matter of the proposed amendment to this Declaration shall be included in the notice of any regular or special meeting of the Association at which such proposed amendment is to be considered.

(c) Adoption. The proposed amendment may be adopted, and shall become effective, unless otherwise provided herein, by and upon the affirmative vote of the Owners of sixty-six and two-thirds percent (66-2/3%) of the Units. Such vote may be taken at any meeting at which a quorum is present. Owners may be present in person or by proxy as allowed by applicable law. In the alternative, any amendment so proposed may be adopted, without a formal meeting of the members, by an instrument executed and acknowledged with the formalities of a deed by members owning sixty-six and two-thirds percent (66-2/3%) of the Units.

16.2 Effective Date and Recording Evidence of Amendment. Any amendment to this Declaration shall be effective as to members of the Association and persons having actual knowledge of the adoption of any amendment to this Declaration, (i) as of the date of adoption or otherwise as may be specified in the resolution or instrument creating the amendment; and (ii) as to non-members of the Association without actual knowledge of an amendment to this Declaration, at the time the affected person acquires actual knowledge thereof or at the time of filing the amendment or certificate of amendment in the Public Records of the County, whichever occurs first. The President of the Association, or, in the absence of the President, a Vice President or other acting chief executive officer of the Association, or Secretary shall cause to be filed in the Public Records of the County, the original amendment to the Declaration, if it is in the form of an instrument executed and acknowledged by Unit Owners and the holders of liens thereon, or a certificate of amendment, if it is a certification by the proper officers of the Association that such amendment was adopted by the Association at a meeting of the members. A true and correct copy of each such amendment or certificate of amendment shall be delivered, forthwith after adoption thereof, to the record Owners of all Units and to the record Owners of all liens on Units, by the President, Vice President or other acting chief executive officer of the Association, but delivery of such copies shall not be a condition precedent to the effectiveness of any such amendment.

16.3 Exceptions. Notwithstanding the foregoing provisions for adoption of amendments to this Declaration or any other provisions for amendment in the Condominium Act and except as otherwise provided herein, no amendment shall:

- (a) change any "Condominium Parcel" (as defined in the Condominium Act);
- (b) discriminate against any Unit Owner or against any Unit comprising part of the Condominium Property;
- (c) change the share of Common Elements appurtenant to any Unit or Units or the share of any Unit Owner in the Common Surplus; or

(d) increase the share of any Unit Owner(s) in the Common Expenses or Common Surplus;

unless the record Owners of all affected Units join in the execution and acknowledgment of such amendment. No amendment to this Declaration shall require the joinder or consent of any owner of a lien on a Unit unless the amendment materially affects the rights or interests of such lien owner or is otherwise required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation. In any such event, such lien owner shall not unreasonably withhold its consent.

ARTICLE 17 **MISCELLANEOUS**

17.1 Notices and Disclaimers As To Security. The Association may, but shall in no manner be obligated to, maintain or support certain activities within the Property, including the Condominium Property designed to make the Property safer than otherwise might be. THE ASSOCIATION SHALL NOT IN ANY MANNER BE DEEMED TO BE INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTY, NOR SHALL THE ASSOCIATION BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE THE SECURITY OR THE INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, IF ANY.

All Owners and occupants of a Unit and their respective guests, tenants and invitees, as applicable, acknowledge that the Association and its officers, Directors, and agents, in no manner represent or warrant that any controlled-access, fire protection system, alarm system or other security system may not be compromised or circumvented, that any life safety, fire protection system, burglar alarm, controlled access gate or other security systems will prevent loss by fire, smoke, robbery, burglary, theft, hold-up, or otherwise, nor that fire protection systems, burglar alarms, controlled access gates or other security systems will in all cases provide the detection or protection for which the system is designed or intended.

EACH OWNER AND OCCUPANT OF ANY UNIT, AND THEIR RESPECTIVE GUESTS, TENANTS, AND INVITEES, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION AND ITS OFFICERS, DIRECTORS AND AGENTS, ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT AND THEIR RESPECTIVE GUESTS, TENANTS AND INVITEES ASSUME ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS, AND IMPROVEMENTS THEREON AND TO THE CONTENTS OF UNITS, AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION AND ITS OFFICERS, DIRECTORS AND AGENTS, HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER OR OCCUPANT, OR THEIR RESPECTIVE GUESTS, TENANTS OR INVITEES, RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY LIFE SAFETY SYSTEM, FIRE PROTECTION SYSTEM, BURGLAR ALARM, CONTROLLED ACCESS GATE, OR OTHER SECURITY SYSTEMS RECOMMENDED OR COMMENDED OR INSTALLED FOR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY

INCLUDING THE CONDOMINIUM PROPERTY. EACH OWNER AND OCCUPANT OF ANY UNIT AND THEIR RESPECTIVE GUESTS, TENANTS AND INVITEES ACKNOWLEDGES AND UNDERSTANDS THAT BEACHWALK CONDOMINIUM IS LOCATED WITHIN THE JURISDICTIONAL LIMITS OF THE CITY OF VERO BEACH, FLORIDA AND IS SERVICED BY THE POLICE DEPARTMENT OF VERO BEACH WHO WILL BE RESPONSIBLE FOR THE SAFETY OF THE OWNERS AND ALL OCCUPANTS OF UNITS. ALL OWNERS ARE ADVISED TO NOTIFY THE POLICE DEPARTMENT OF VERO BEACH OF ANY AND ALL HOME, SAFETY AND PROPERTY EMERGENCIES IN BEACHWALK CONDOMINIUM.

17.2 Covenants Running With The Land. ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING AND WITHOUT LIMITING THE GENERALITY (AND SUBJECT TO THE LIMITATIONS) OF OTHER APPLICABLE SECTIONS HEREOF, IT IS THE INTENTION OF ALL PARTIES AFFECTED HEREBY (AND THEIR RESPECTIVE HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS) THAT THIS DECLARATION OF CONDOMINIUM AND THE COVENANTS AND RESTRICTIONS SET FORTH HEREIN SHALL RUN WITH THE LAND AND WITH TITLE TO THE PROPERTY. WITHOUT LIMITING THE GENERALITY OF ANY OTHER SECTION HEREOF, IF ANY PROVISION OR APPLICATION OF THIS DECLARATION WOULD PREVENT THIS DECLARATION FROM RUNNING WITH THE LAND AS AFORESAID, SUCH PROVISION AND/OR APPLICATION SHALL BE JUDICIALLY MODIFIED, IF AT ALL POSSIBLE, TO COME AS CLOSE AS POSSIBLE TO THE INTENT OF SUCH PROVISION OR APPLICATION AND THEN BE ENFORCED IN A MANNER WHICH WILL ALLOW THIS DECLARATION OF CONDOMINIUM AND THE COVENANTS AND RESTRICTIONS SET FORTH HEREIN TO SO RUN WITH THE LAND; BUT IF SUCH PROVISION AND/OR APPLICATION CANNOT BE SO MODIFIED, SUCH PROVISION AND/OR APPLICATION SHALL BE UNENFORCEABLE AND CONSIDERED NULL AND VOID IN ORDER THAT THE PARAMOUNT GOAL OF THE PARTIES AFFECTED HEREBY (THAT THIS DECLARATION OF CONDOMINIUM AND THE COVENANTS AND RESTRICTIONS SET FORTH HEREIN RUN WITH THE LAND AS AFORESAID) BE ACHIEVED.

17.3 Severability. The invalidity in whole or in part of any covenant or restriction, or any Article, Section, subsection, sentence, clause, phrase or word, or other provision of this Declaration of Condominium and the Articles of Incorporation, Bylaws and rules and regulations of the Association shall not affect the validity of the remaining portions thereof.

17.4 Applicability of Declaration of Condominium. All present or future Owners, tenants, or any other person who might use the facilities of the Condominium in any manner, are subject to the provisions of this Declaration and the mere acquisition or rental of any Unit or the mere act of occupancy of any Unit, shall signify that the provisions of this Declaration of Condominium are accepted and ratified in all respects.

17.5 Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of Condominium ownership.

17.6 Bound. The restrictions and burdens imposed by this Declaration of Condominium are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Unit and its appurtenant undivided interest in Common Elements and this Declaration shall be binding upon the Association, all Owners and upon all parties who may subsequently become Owners of Units in the Condominium, and their respective heirs, legal representatives, successors and assigns.

17.7 Delivery of Documents to Subsequent Owners. Owners shall be obligated to deliver a copy of the documents originally received containing this and other declarations and documents, to any grantee or lessee of such Owners.

17.8 Governing Law and Venue. The terms, covenants and conditions of this Declaration shall be construed, governed by and enforced in accordance with the laws of the State of Florida and venue for all purposes shall be deemed to be Indian River County, Florida.

17.9 Gender and Plurality. Whenever the context so requires, the use of the masculine gender shall include the feminine and neuter, the use of the singular shall include the plural, and the use of the plural shall include the singular.

17.10 Owner Acceptance and Ratification. By acquisition of title to a Unit or Units subject to this Declaration, each Owner thereby irrevocably ratifies, approves and affirms all provisions of the Declaration and actions of the Board with respect to the method of determination and collection of assessments and assessment rates for the year during which such Owner acquired title to his Unit.

CERTIFICATE OF ADOPTION OF THE AMENDED AND RESTATED DECLARATION
OF BEACHWALK OF VERO BEACH CONDOMINIUM ASSOCIATION, INC., a Florida
Corporation Not For Profit

The undersigned hereby certifies that this document is an Amended and Restated Declaration of Beachwalk Condominium which supersedes and amends that Declaration of Condominium as recorded in Official Record Book 1376, Page 2140 of the Public Records of Indian River County, Florida, and all subsequent amendments thereto.

We hereby certify that the Amended and Restated Declaration of Condominium for Beachwalk of Vero Beach Condominium Association, Inc., a Florida Corporation Not for Profit, were approved by at least a majority of the Board of Directors on March 19, 2009 and at least seventy-five percent (75%) of the voting interest of all Unit Owners on the 9th day of April, 2009, as required for approval by Florida Statutes and the condominium documents.

IN WITNESS WHEREOF, the Association has executed this Amended and Restated Declaration of Condominium on the 23rd day of April, 2009.

BEACHWALK OF VERO BEACH
CONDOMINIUM ASSOCIATION, INC.,
a Florida corporation

WITNESSES:

[Signature]

Signature of Witness
Ken N. Thompson

Print Name of Witness

By: [Signature]

Martin Ingwersen, President

[Signature]

Signature of Witness
Densel L. Whitman

Print Name of Witness

ATTEST: [Signature]

Richard N. Ogle, Assistant Treasurer

STATE OF FLORIDA)
) ss:
COUNTY OF INDIAN RIVER)

I HEREBY CERTIFY that on this day, before me an officer duly authorized in the State aforesaid and in the County aforesaid to administer oaths and take acknowledgments, personally appeared Martin Ingwersen, as President and Richard N. Ogle, Assistant Treasurer of BEACHWALK OF VERO BEACH CONDOMINIUM ASSOCIATION, INC., the corporation in whose name the foregoing instrument was executed and that he/she acknowledged executing the same for such corporation, freely and voluntarily, under authority duly vested in him/her by said corporation, and that the above-named persons are personally known to me and that an oath (was) (was not) taken.

WITNESS my hand and official seal in the County and State last aforesaid this 23rd day of April, 2009.

(NOTARY PUBLIC)



Kathy H. Heckman
(Sign name of Notary Public)
Kathy H. Heckman
(Print Name of Notary Public)
Commission Number: _____
My Commission Expires: _____

EXHIBIT "A"

Legal Description of the Condominium Property

EXHIBIT "A"

Legal Description

Lots 2, 3, 4, 5, 6 and 7, including the north half of abandoned 15 foot alley abutting said lots together with Lots 10, 11, 12, 13, 14 and 15, including the south half of abandoned 15 foot alley abutting said lots together with the East 35 feet of abandoned Coral Avenue abutting the west side of said Lot 15, as shown on the Plat of THE OCEAN CORPORATION SUBDIVISION UNIT NO. 2, according to the Plat thereof, as recorded in Plat Book 4, at Page(s) 81, of the Public Records of Indian River County, Florida.

JR 1376PG2186