

This instrument was prepared by  
LANCE D. CLOUSE, Esquire,  
BECKER & POLIAKOFF, P.A.  
401 SE Osceola Street, First Floor  
Stuart, Florida 34994

**CERTIFICATE OF AMENDMENT  
AMENDMENTS  
TO THE  
DECLARATION OF CONDOMINIUM  
ESTABLISHING  
WEST PASSAGE, A CONDOMINIUM,  
AMENDMENT  
TO THE  
ARTICLES OF INCORPORATION  
OF  
WEST PASSAGE ASSOCIATION, INC.,  
AND  
AMENDED AND RESTATED BYLAWS  
OF  
WEST PASSAGE ASSOCIATION, INC.**

WHEREAS, the Declaration of Condominium Establishing West Passage, a Condominium ("Declaration") was recorded in Official Records Book 591, commencing at Page 1690 of the Public Records of Indian River County, Florida;

WHEREAS, the Articles of Incorporation of West Passage Association, Inc. ("Articles") were recorded in Official Records Book 591, commencing at Page 1737 of the Public Records of Indian River County, Florida;

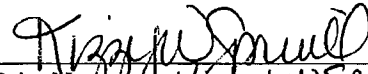
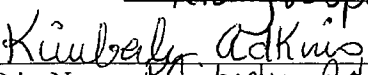
WHEREAS, the Bylaws of West Passage Association, Inc. ("Bylaws") were recorded in Official Records Book 591, commencing at Page 1751 of the Public Records of Indian River County, Florida;

WHEREAS, at the Members' Meeting held on March 14, 2016, the membership approved, by a vote in excess of that required by the governing documents, the amendments to the Declaration, the Articles, and the Amended and Restated By-Laws as attached hereto.

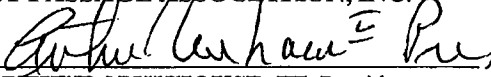
NOW, THEREFORE, BE IT RESOLVED that the attached amendments to the Declaration, Articles and Bylaws be amended as set forth therein.

IN WITNESS WHEREOF, we have affixed our hands this 19<sup>th</sup> day of April 2016, in Indian River County, Florida.

**WITNESSES:**

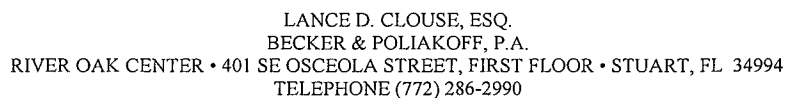
  
Print Name: Kizy W Spruill  
  
Print Name: Kimberly Adkins

**WEST PASSAGE ASSOCIATION, INC.**

By:   
ARTHUR NEWHOUSE, III, President

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of April 2016, by **ARTHUR NEWHOUSE, III**, as President of West Passage Association, Inc., a Florida not-for-profit corporation.

Kimberly Ann Adkins  
Print Name: Kimberly Ann Adkins  
My Commission Expires: July 18, 2018



**AMENDMENTS  
TO THE  
DECLARATION OF CONDOMINIUM  
ESTABLISHING  
WEST PASSAGE, A CONDOMINIUM  
AND  
AMENDMENT  
TO THE  
ARTICLES OF INCORPORATION  
OF  
WEST PASSAGE ASSOCIATION, INC.**

**NOTE: NEW WORDS INSERTED IN THE TEXT ARE UNDERLINED AND WORDS DELETED ARE LINED THROUGH WITH HYPHENS.**

**1. Amendment to Article X, Section (B) of the Declaration, as follows:**

**Interest; Application of Payments.** Assessments and installments on such assessments, which are paid on or before ten days after date when due, will not bear interest, but all sums not paid on or before ten days after the date when due will bear interest at the highest lawful rate of ten percent (10%) per annum from the date when due until paid. All payments upon account will be first applied to interest, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessments payment first due. The foregoing is applicable notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment.

**2. Amendment to Article X, Section (F) of the Declaration, as follows:**

**Liability of Mortgagee, Lienor or Judicial Sale Purchaser for Assessments.** Where the mortgagee of an institutional first mortgage of record acquires title to an apartment as a result of such foreclosure, or where said mortgagee accepts a deed to an apartment in lieu of foreclosure, such acquirer of title, his heirs, executors, legal representatives, successors and assigns, will not be liable for the share of common expenses or assessments by the Association pertaining to such apartment or chargeable to the former owner of such apartment which became due prior to such acquisition of title except as otherwise provided in Section 718.116(1)(b)1., Florida Statutes, as amended or renumbered from time to time. Any sSuch unpaid share of common expenses or assessments, if not reasonably collectible from the prior owner, will be deemed to be common expenses, collectible from all of the apartment owners, including such acquirer of title, his heirs, executors, legal representatives, successors and assigns.

Any person who acquires an interest in an apartment, except as hereinabove described, shall not be entitled to its occupancy or to the enjoyment of its common

elements or limited common elements until all unpaid assessments due and owing by the former owner have been paid.

**3. Amendment to Article V, Section 5.1 of the Articles of Incorporation, as follows:**

The affairs of the Association will be managed by a board consisting of the number of directors determined by the Bylaws of the Association, but not less than three directors; and in the absence of such determination will consist of three directors. ~~Directors need not be members of the Association.~~ Eligibility to serve as a Director shall be as provided in the Bylaws.

**AMENDED AND RESTATED  
BYLAWS  
OF  
WEST PASSAGE ASSOCIATION, INC.**

**SUBSTANTIAL REWORDING OF BYLAWS - SEE CURRENT BYLAWS FOR  
CURRENT TEXT**

**1. IDENTITY.** These are the Amended and Restated Bylaws (hereinafter "Bylaws") of West Passage Association, Inc., a Florida not-for-profit Corporation formed for the purpose of administering West Passage, A Condominium (hereinafter "the Condominium") which is located in Indian River County, Florida, upon the lands described in the Declaration of Condominium. (The corporation may hereafter be referred to as the "Association.")

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

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

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

**1.4 Definitions.** All terms used in these Bylaws shall have the same meaning, to the extent applicable, as set forth in the Articles of Incorporation for the Association, the Declaration of Condominium and the Florida Condominium Act (Chapter 718, Florida Statutes, 2014), all as amended from time to time ("Act").

**2. MEMBERS' MEETINGS.**

**2.1 Annual Meetings.** Annual Members' meetings shall be held at such convenient location in Indian River County as may be determined by the Board of Directors. The annual meeting shall be held on the date and time during the month of March, or any other date as determined by the Board, for the purpose of electing directors and transacting any business authorized to be transacted by the members. However, the meeting may not be held on a legal holiday.

**2.2 Special Meetings.** Special Members' meetings shall be held whenever called by the President or by a majority of the Board of Directors, and shall be called by the President or Secretary within a reasonable time of receipt of written notice from 10% of the Voting Interests of the Association. Members' meetings to recall a member or members of the Board of

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

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

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

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

**2.4.1** Not less than sixty (60) days before a scheduled election, the Association shall mail (whether by separate Association mailing or included in another Association mailing or delivery including regularly published newsletters), deliver or electronically transmit, as permitted by the Act, to each member entitled to vote, a first notice of the date of the election. Any person desiring to be a candidate for the Board of Directors shall give written notice to the Association not less than forty (40) days before scheduled election. Not less than fourteen (14) days before the election, the Association shall mail, deliver or electronically transmit, as provided in the Act, a second notice of the election to all members entitled to vote in the election, together with a written secret ballot containing the names of all properly pre-qualified candidates in alphabetical order which shall include an information sheet (if provided by the candidate), no larger than 8½ inches by 11 inches furnished by the candidate, to be included with the mailing of the ballot, with the costs of mailing and copying to be borne by the Association. Notwithstanding any of foregoing to the contrary, the Association Board, upon the adoption of a resolution in accordance with the Act as amended from time to time, may also utilize an electronic voting process in accordance with the requirements of the Act, as amended from time to time.

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

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

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

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

**2.5.1 Apartments Owned by Association.** No Voting Interest or consent right allocated to an Apartment owned by the Association shall be exercised or considered for any purpose, whether for a quorum, an election or otherwise, as provided in Section 718.112(2)(b)2. of the Act. Whenever an Apartment owned by the Association is ineligible to vote due to the provisions of the Act and these Bylaws, the Voting Interest attributable to that Apartment shall be subtracted from the required number of votes when calculating any required vote for quorum for the period during which the Association owns the Apartment.

**2.6 Indivisible Vote.** Each Apartment shall have one indivisible vote. If an Apartment is owned by multiple individuals, such as a husband and wife, any record Owner may vote on behalf of the Apartment. If an Apartment is owned by a corporation, any officer may vote on behalf of said corporation. If an Apartment is owned by a partnership, any general partner may vote on behalf of the partnership. If an Apartment is owned in trust, any trustee of a

trust shall be entitled to vote. If an Apartment is owned by a limited liability company, any member or manager may vote on behalf of the limited liability company. Any person with apparent authority asserting the right to vote on behalf of an Apartment owned by an artificial entity shall be conclusively presumed to be entitled to vote on behalf of said Apartment, unless the Apartment has filed voting instructions with the Association designating some other person entitled to vote. If multiple Owners or non-individual Owners of an Apartment cannot agree on a vote, the vote shall not be counted as to the issue upon which disagreement exists. Voting certificates are not required. No individual may cast a vote assigned to an Apartment where the voting rights assigned to the Apartment are suspended pursuant to the terms of the Condominium Documents and/or Florida Law.

**2.7 Voting/Proxies.** Votes may be cast in person, by proxy, or by electronic voting if so permitted in the Act as amended from time to time. To be valid, a proxy must be in writing, with the date, time and place of the meeting for which it is given, and signed by a member. A proxy shall be valid only for the particular meeting designated therein or an adjournment thereof, but in no event for more than 90 days after the date of the first meeting for which it was given, and must be filed with the Association before or at the voter registration immediately preceding the meeting, or adjournment thereof. Except as specifically otherwise provided by law, members may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the Division of Florida Condominiums, Timeshares and Mobile Homes from time to time. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes regarding reserves; for votes taken to waive financial statement requirements; for votes taken to amend the Declaration; for votes taken to amend the Articles of Incorporation or Bylaws; and for any other matter which the Act requires or permits a vote of the members. No proxy, limited or general, shall be used in the election of Board members. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for non-substantive changes to items for which a limited proxy is required and given. A photographic, photostatic, facsimile, electronic or equivalent reproduction of a signed and valid proxy shall be deemed valid for all purposes. A proxy may be revoked by an eligible voting interest for the Apartment at any time prior to the meeting for which the proxy was given.

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

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

**2.9.1** Call to order by the President;

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

2.9.3 Appointment by the Chair of inspectors of election;

2.9.4 Election of Directors;

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

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

2.9.7 Disposal of unapproved minutes;

2.9.8 Reports of Officers;

2.9.9 Reports of Committees;

2.9.10 Unfinished business;

2.9.11 New business;

2.9.12 Adjournment.

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

### **3. BOARD OF DIRECTORS.**

**3.1 Number, Term, and Qualifications.** The affairs of the Association shall be governed by a Board composed of no less than three (3) nor more than nine (9) Directors, provided that the number of directors shall be an odd number. The total number of directors' positions shall remain the same from year to year unless the Board, by written resolution, adopts a different number of Directors at a duly noticed board meeting held no less than sixty (60) days prior to the election at which the different number of directors will take effect. All Directors shall be members or the spouse of a member. If provided in the Act as amended from time to time, co-owners of an Apartment cannot simultaneously serve on the Board, except as permitted by the Act. No more than one natural person may represent any one Apartment on the Board at any given time. When an Apartment is owned by a corporation or other business entity not expressly provided for herein, an officer or director of the corporation shall be eligible for Board

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membership. When an Apartment is owned by a partnership, a general or limited partner of the partnership shall be eligible for Board membership. When an Apartment is owned by a limited liability company, a manager or managing member shall be eligible for Board membership. Trustees and beneficiaries of trusts (provided that the beneficiaries reside in the Apartment), and the spouses of such persons, shall be considered eligible for Board membership. Persons who have been convicted of any felony in this State or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction that would be considered a felony if committed in this State, are not eligible to serve on the Board, unless such felon's rights have been restored for a period of at least 5 years as of the date on which such person seeks election to the Board. A person who has been suspended or removed by the Division of Florida Condominiums, Timeshares, and Mobile Homes pursuant to the Act, or who is more than 90 days delinquent in the payment of any fee, fine, or special or regular assessment is not eligible for Board membership. All Directors will be elected for two (2) year staggered terms. To maintain an orderly succession of staggered terms, on odd years (i.e. 2015, etc.), an odd number of directors will be elected; on even years (i.e. 2016, etc.), an even number of directors will be elected. The term of each Director's service shall extend until their elected term is completed. Directors may serve multiple consecutive terms. Resignations of Directors are effective when received by the Association in writing, unless a later date is stated.

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

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

**3.4 Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings, unless fixed by Board resolution, shall be given to each Director personally or by mail, electronic mail or other electronic transmission, telephone, or facsimile at least forty-eight (48) continuous hours prior to such meeting.

**3.5 Special Meetings.** Special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of any two (2) Directors. Not less than forty-eight (48) continuous hours' notice of the meeting (except in an emergency) shall be given to each Director personally or by mail, electronic mail or other electronic transmission, telephone, or facsimile, which notice shall state the time, place, and purpose of the meeting. Twenty percent (20%) of the Voting Interests may petition for the Board to take up an

item of business at a regular or special meeting of the Board. Such meeting must be held within 60 days of receipt of the petition. The Board is not required to take any particular action as a result of such petitions.

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

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

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

**3.9 Board Meetings, Quorum, and Voting.** The designation of the agenda for Board meetings shall be at the discretion of the President. However, the President shall be obligated to include any item on the agenda for a Board meeting, if requested, in writing, by two Board members, and where required due to petition from twenty percent (20%) of the Voting Interests. A quorum at Directors' Meetings shall consist of a majority of the Directors. The acts approved by a majority of the Board of Directors present and voting at a meeting shall constitute the acts of the Board unless a higher level of approval is required by law. Directors may not vote by proxy or by secret ballot at Board meetings (except that Directors may vote by secret ballot when electing Officers) and a vote or abstention for each member present shall be recorded in the

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minutes. A Director of the Association who abstains from voting on any action taken on any corporate matter shall be presumed to have taken no position with regard to the action. If at any meeting of the Board there is less than a quorum present, or if a quorum exists and a majority of the Directors so approve, the Director(s) present may adjourn the meeting from time to time until a quorum is present and no further notice need be given except for announcement at the meeting being adjourned as to the date, time, and place the meeting will be reconvened. At any reconvened meeting, any business which might have been transacted at the meeting as originally called may be transacted. Directors may participate telephonically in Board meetings, as provided by law.

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

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

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

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

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

**4.3 To Maintain The Condominium Property.** The Directors shall maintain, repair, replace, and operate the property within the Condominium for which it responsible pursuant to the Association's governing documents.

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

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

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

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

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

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

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

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

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

**4.13 To Enter Into Contracts for Products and Services.** All contracts for the purchase, lease, or renting of materials or equipment, or which are not to be fully performed within one year, and all contracts for services shall be in writing. As to any such contract which requires payment exceeding 5% of the gross budget (including reserves) except for contracts with employees of the Association, attorneys, accountants, architects, engineers, landscape architects, and community association managers, the Association shall obtain competitive bids unless the products and services are needed as the result of an emergency, or unless the desired supplier is the only source of supply within Indian River County. The Association need not accept the lowest bid. If a contract was awarded under the competitive bid procedures of this Article, any renewal of that contract is not subject to such competitive bid requirements if the contract contained a provision that allowed the Board to cancel a contract on thirty days' notice. Materials, equipment, or services provided to a condominium under a local government franchise

agreement by a franchise holder are not subject to the competitive bid requirements of this Article.

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

**4.14.1** A fine may be imposed for each day of continuing violation at the highest rate allowed by law per violation with a single notice and opportunity for hearing, provided that no fine shall in the aggregate exceed the maximum amount permissible by law. A suspension shall be levied and enforceable for a reasonable amount of time, as determined by the Board of Directors, and subject to the approval of the independent committee as specified in Section 718.303 of the Act and section 4.14.3 hereof.

**4.14.2** The party against whom the fine and/or suspension is sought to be levied shall be afforded an opportunity for hearing by being given notice of not less than fourteen (14) days in advance of the hearing. Notice shall be effective when mailed by United States Mail, certified, return receipt requested, to the address of the member listed in the official records of the Association, and as to Tenants, to the mailing address for the Apartment. Said notice shall include:

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

**4.14.3** The party against whom the fine and/or suspension may be levied shall have an opportunity at the hearing to respond to the allegations raised by the Association, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. The hearing shall be held before a Committee of members appointed by the Board, which may not include Board members nor persons residing in a Board member's household. If the Committee does not agree with the fine and/or suspension, the fine and/or suspension may not be imposed. Should the Association be required to initiate legal proceedings to collect a duly levied fine, or enforce a duly imposed suspension, the prevailing party in an action to collect said fine shall be entitled to an award of costs, and a reasonable attorney's fee incurred before trial (including in connection with the preparation for and conduct of fining and/or suspension

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hearings), at trial, and on appeal. Members shall be jointly and severally liable for the payment of fines levied against and/or suspension imposed upon Tenants, Guests, Invitees, or other Occupants of an Apartment.

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

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

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

**4.19 To Exercise Emergency Powers.** In the event of any "emergency" as defined in Article 4.19.10 below, the Board of Directors may exercise the emergency powers described in this Article, and any other emergency powers authorized by Section 617.0207, Florida Statutes (2014), Section 617.0303, Florida Statutes (2014), and Section 718.1265 of the Act, all as amended from time to time.

**4.19.1** The Board may name as Assistant Officers persons who are not Directors, which Assistant Officers shall have the same authority as the Executive Officers to whom they are assistant during the period of the emergency, to accommodate the incapacity of any Officer of the Association.

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

**4.19.3** During any emergency the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any practicable manner, including publication or radio. The Director or Directors in attendance at such a meeting shall constitute a quorum.

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

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

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

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

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

**4.19.9** These emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

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

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

**4.19.10.2** a hurricane warning;

**4.19.10.3** a partial or complete evacuation order;

**4.19.10.4** federal or state “disaster area” status;

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

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

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

## **5. OFFICERS.**

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

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

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

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

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

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

## **6. INDEMNIFICATION.**

**6.1 Indemnity.** The Association shall indemnify any Officer, Director, or Committee member who was or is a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a Director, Officer, or Committee member of the Association, against expenses (including attorney's fees and appellate attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, unless (i) a court of competent jurisdiction finally determines, after all appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful, and (ii) such court also determines specifically that indemnification should be denied. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent shall not, of itself, create a presumption that the person failed to act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. It is the intent of the membership of the Association, by the adoption of this provision, to provide the most comprehensive indemnification possible to their Officers, Directors, and Committee members as permitted by Florida law.

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

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

**6.4 Miscellaneous.** The indemnification provided by this Article 6 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any Bylaw, agreement, vote of members, or otherwise, and shall continue as to a person

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who has ceased to be a Director, Officer, or Committee member and shall inure to the benefit of the heirs and personal representatives of such person.

**6.5 Insurance.** The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, Officer, Committee member, employee, or agent of the Association, or a Director, Officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the duty to indemnify him against such liability under the provisions of this Article.

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

## **8. FISCAL MANAGEMENT.**

**8.1 Budget.** The budget shall be adopted by the Board. A proposed annual budget of Common Expenses and anticipated revenues shall be prepared by the Board of Directors which shall include all anticipated income/revenue and expenses for operation, maintenance, and administration of the Condominium. The proposed budget may also include expenses of security, in-house communications, Directors and Officers insurance, transportation services, bulk cable or master antenna television, and interior pest control, all of which are declared to be Common Expenses under these Bylaws. The proposed budget shall include reserves per Section 718.112(2)(f)2 of the Act, the funding of which may be waived or reduced by a vote of a majority of the Voting Interests present (in person or by proxy) and voting at a duly noticed meeting of the Association. Notwithstanding any of foregoing to the contrary, the Association Board, upon the adoption of a resolution in accordance with the Act as amended from time to time, may also utilize an electronic voting process, if so permitted by the Act, as amended from time to time, for the membership to vote to waive or reduce reserve funding. Reserve funds and any accrued interest on the reserve funds shall remain in the reserve account for authorized reserve expenditures, unless their use for other purposes is approved in advance by a vote of the majority of the Voting Interests present (in person or by proxy) and voting at a duly called meeting of the Association; provided, however, that the vote may also be conducted utilizing electronic voting if so permitted by the Act, as amended from time to time. The budget may contain a reasonable allowance for contingencies and provide funds for all operating expenses previously incurred. If at any time a budget shall prove insufficient, it may be amended by the Board of Directors for the remaining portion of the fiscal year, provided that notice of the Board meeting at which the revised budget will be considered along with a copy of the proposed revisions to the budget shall be mailed, delivered or electronically transmitted, if permitted by the Act, to each member as provided in Article 8.2 hereof.

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

**8.2 Budget Meeting Notice; Posting.** A copy of the proposed annual budget shall be mailed, hand-delivered or electronically transmitted, as permitted by the Act, to the members not less than fourteen (14) days prior to the meeting of the Directors at which the budget will be adopted together with a notice of the meeting. Electronic notice transmitted to the address furnished by the Apartment Owner for such purpose is acceptable where permissible by law. The notice shall also be posted in a conspicuous location on the Condominium Property as provided by law. The Board may include notice of its meeting to set the insurance deductible with notice of the budget meeting.

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

**8.4 Special Assessments.** Special Assessments for Common Expenses which are not funded through the budget may be made by the Board of Directors, and the time of payment shall likewise be determined by the Board of Directors. Notice of the Board meeting at which such Assessments shall be considered shall be posted and mailed to each member as provided in

Article 3.7 hereof, except in the event of an emergency. 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, and may, at the discretion of the Board, either be returned to the members or applied as a credit towards future Assessments.

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

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

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

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

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

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LANCE D. CLOUSE, ESQ.  
BECKER & POLIAKOFF, P.A.  
RIVER OAK CENTER • 401 SE OSCEOLA STREET, FIRST FLOOR • STUART, FL 34994  
TELEPHONE (772) 286-2990

collection expenses and reasonable attorney's fees incurred, and then to the Assessment payment first due. Thereafter, any remaining payments will be applied to any Charges due.

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

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

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

**8.12 Commingling of Funds.** All funds of the Association shall be maintained separately in the Association's name. No community association manager or business entity required to be licensed or registered under Section 468.432, Florida Statutes (2012), as amended from time to time, no agent, employee, Officer, or Director of the Association shall commingle any Association funds with his funds or with the funds of any other condominium association or community association as defined in Section 468.431, Florida Statutes (2012), as amended from time to time, or with those of any other entity. Reserve funds and operating funds of the Association may be commingled for investment purposes, as provided by law.

**8.13 Financial Reports.** The Board shall cause to be prepared either a compiled, reviewed or audited financial statement, or a report of cash receipts and expenditures in lieu of

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financial statements, in accordance with the Act, as amended from time to time. The level of financial reporting may be increased or decreased in the manner provided in the Act, as amended from time to time. Unless otherwise permitted by law, the Association may not waive the level of financial reporting requirements required in the Act for more than three (3) consecutive years.

**8.14 Fidelity Bonding.** The Association shall obtain and maintain adequate fidelity bonding in the minimum principal sum set forth in the Act, for each person (whether or not a Director) who controls or disburses Association funds, and the President, Secretary and Treasurer. The Association shall bear the cost of bonding of Directors and Officers. In the case of a community association manager or management firm, the cost of bonding may be allocated as the parties may agree.

**9. PARLIAMENTARY RULES.** Except when in conflict with the Declaration of Condominium, Articles of Incorporation, these Bylaws, of the Act, Robert's Rules of Order (latest edition) shall be used as a general, non-binding guide in the conduct of members' meetings, Board meetings, and Committee meetings to ensure fairness, impartiality, and respect for minority views without unduly burdening majority rights. The Chair or Parliamentarian may dispense with Robert's Rules at any time in his or her sole discretion. Meetings shall also be conducted in accordance with these Bylaws and the procedures established by the Board from time to time, including the form of voting documents to be used. The ruling of the Chair of the meetings, unless he or the Board of Directors designates a third person, as Parliamentarian, shall be binding on all matters of procedure, unless contrary to law.

**10. BYLAW AMENDMENTS.** Amendments to the Bylaws shall be adopted in the following manner:

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

**10.2 Proposed Amendment Format.** Proposals to amend existing Bylaws shall contain the full text of the article to be amended. New words shall be underlined and words to be deleted shall be lined through with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment substantially stating, "SUBSTANTIAL REWORDING OF BYLAWS. SEE BYLAW NUMBER \_\_\_ FOR PRESENT TEXT."

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

**10.4 Adoption of Amendments.** A resolution for the adoption of a proposed amendment may be adopted by the approval of seventy-five percent (75%) of the Voting Interests of the Association, or by the written agreement of seventy-five percent (75%) of the

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Voting Interests in the Association. Notwithstanding any of foregoing to the contrary, the Association Board, upon the adoption of a resolution in accordance with the Act as amended from time to time, may also utilize an electronic voting process in accordance with the requirements of the Act, as amended from time to time, when seeking to adopt amendments to the Bylaws. Amendments correcting errors, omissions or scrivener's errors may be executed by the Officers of the Association, upon Board approval, without need for Association membership vote.

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

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

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

## **11. DISPUTE RESOLUTION.**

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

**11.2 Member Inquiries; Member's Pre-Litigation Grievance Notice.** When a member files a written inquiry by certified mail with the Board, the Board shall respond in writing to the member within thirty (30) days of receipt of said inquiry. The Board's response shall either give a substantive response to the inquirer, notify the inquirer that legal advice has been requested, or notify the inquirer that advice has been requested from the Association's counsel or the Division. If the Board requests advice from the Division, the Board shall, within ten days of its receipt of the advice, provide in writing a substantive response to the inquirer. If a legal opinion is requested, the Board shall, within sixty (60) days after the receipt of the inquiry, provide in writing a substantive response to the inquirer. Unless otherwise provided by law, the

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failure to provide a substantive response to the inquirer as provided herein precludes the Association from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the inquiry. Absent a different rule adopted by the Board of Directors, the Board shall only be obligated to respond to one inquiry per month pertinent to any particular Apartment. In the event of a grievance of a member against the Association, the Board of Directors, or a member thereof, the member shall give detailed, written notice of the grievance to the Association prior to the institution of litigation, (including but not limited to arbitration) and the Association shall be allowed a period of thirty (30) days in which to resolve the grievance.

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

**12. MISCELLANEOUS.** The following miscellaneous provisions shall apply to these Bylaws and the Condominium Documents.

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

1. Declaration of Condominium;
2. Articles of Incorporation;
3. Bylaws; and,
4. Rules and Regulations.

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

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

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LANCE D. CLOUSE, ESQ.  
BECKER & POLIAKOFF, P.A.  
RIVER OAK CENTER • 401 SE OSCEOLA STREET, FIRST FLOOR • STUART, FL 34994  
TELEPHONE (772) 286-2990

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