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BECKER & POLIAKOFF
13515 BELL TOWER DR #101
FT MYERS FL 33907

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04/25/2003 at 09:21AM DWIGHT B. BROCK, CLERK

REC FEE 411.00

CERTIFICATE OF RECORDATION

AMENDED AND RESTATED DECLARATION OF CONDOMINIUM THE MARQUESA AT BAY COLONY, A CONDOMINIUM

AMENDED AND RESTATED ARTICLES OF INCORPORATION AMENDED AND RESTATED BY-LAWS AMENDED AND RESTATED RULES AND REGULATIONS THE MARQUESA AT BAY COLONY CONDOMINIUM ASSOCIATION, INC.

I HEREBY CERTIFY that the attached Amended and Restated Condominium Documents were duly adopted by the Association membership at the duly noticed special members' meeting of the Association on the 17th day of April, 2003. The original Declaration of Condominium for The Marquesa at Bay Colony, A Condominium is recorded at O.R. Book 1994, at Pages 1925 et. seq. of the Collier County Public Records.

The Amended and Restated Declaration of Condominium of The Marquesa at Bay Colony, A Condominium is attached hereto. The Amended and Restated Articles of Incorporation of The Marquesa at Bay Colony Condominium Association, Inc. are also attached. The Amended and Restated By-Laws of The Marquesa at Bay Colony Condominium Association, Inc. are also attached. All previous site plans of record are incorporated by reference, with photocopies recorded for reference. The Amended and Restated Rules and Regulations of The Marquesa at Bay Colony Condominium Association, Inc. are also attached. The Rules and Regulations may also be further amended without recordation of said changes in the public records.

WITNESSES:
(TWO)

Signature
INES CARMONA
Printed Name

Signature
ROBERT PEREZ
Printed Name

THE MARQUESA AT BAY COLONY CONDOMINIUM ASSOCIATION, INC.

BY: _____
Norbert Blessing, President

Date: 4/23/03

(CORPORATE SEAL)

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TELEPHONE (239) 261-9555

STATE OF FLORIDA)
) SS:
COUNTY OF COLLIER)

The foregoing instrument was acknowledged before me this 23rd day of April, 2003 by Norbert Blessing as President of The Marquesa at Bay Colony Condominium Association, Inc., a Florida Corporation, on behalf of the corporation. He is personally known to me or has produced (type of identification) _____ as identification and did take an oath.

Joanne A. Laibinis
Notary Public

Joanne A. Laibinis
Printed Name

My commission expires: _____

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AMENDED AND RESTATED

DECLARATION OF CONDOMINIUM

OF

THE MARQUESA AT BAY COLONY, A CONDOMINIUM

SUBSTANTIAL REWORDING OF DECLARATION OF CONDOMINIUM- SEE CURRENT DECLARATION OF CONDOMINIUM FOR CURRENT TEXT

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RECITALS:

In a Declaration of Condominium recorded at O.R. Book 1994, Pages 1925 et seq. of the Collier County Public Records on October 17, 1994, the Condominium Developer did submit to condominium ownership pursuant to Chapter 718, Florida Statutes, known as the Condominium Act, that property situated in Collier County, Florida, more particularly described in Exhibit "E" thereto and subsequently described, as amended, at Condominium Plat Book 41, Pages 26 - 31, Collier County Public Records.

Said Declaration was subsequently amended as follows:

Amendment recorded at O.R. Book 2005, Pages 0044 *et seq.*, Collier County Public Records.

Amendment recorded at O.R. Book 2119, Pages 1380 *et seq.*, Collier County Public Records.

Amendment recorded at O.R. Book 2132, Pages 0648 *et seq.*, Collier County Public Records.

Amendment recorded at O.R. Book 2244, Pages 1228 *et seq.*, Collier County Public Records.

Amendment recorded at O.R. Book 2795, Pages 3311 *et seq.*, Collier County Public Records.

Amendment recorded at O.R. Book 2830, Pages 1453 *et seq.*, Collier County Public Records.

The submission of the land to the condominium form of ownership by that document is and will remain effective. By adoption of this Amended and Restated Declaration of Condominium, the Association members hereby adopt certain amendments to the Declaration of Condominium and hereby restate the Declaration of Condominium and its Exhibits in its entirety. By adoption of

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this Amended and Restated Declaration of Condominium, the members of the Association ratify governance of the property described above and in Exhibit "A" hereto under the condominium form of ownership and the provisions of Chapter 718, Florida Statutes (2002), as amended from time to time.

1. **DEFINITIONS.** As used herein or elsewhere in the Condominium Documents, unless otherwise provided, the terms used shall be as defined in the Act and as herein provided:

1.1 **"Act" or "Condominium Act"** means the Condominium Act (Chapter 718 of the Florida Statutes), as it now exists or as may be amended from time to time, including the definitions therein contained.

1.2 **"Apartment"** has the same meaning as the term "Unit" as defined in the Condominium Act.

1.3 **"Apartment Owner" or "Owner"** has the same meaning as the term "Unit Owner" as defined in the Condominium Act, except that for the purpose of interpreting use and occupancy restrictions related to units, in cases where a primary occupant has been designated for a Unit because of its ownership, the word "Owner" refers to the Primary Occupant and not the record owner.

1.4 **"Articles"** means Articles of Incorporation as attached hereto as Exhibit "B".

1.5 **"Assessment"** means a share of the funds required for the payment of common expenses, which from time to time is assessed against the Unit Owner, and such additional sums which may be assessed directly against the Unit.

1.6 **"Association"** means THE MARQUESA AT BAY COLONY CONDOMINIUM ASSOCIATION, INC., a Florida Corporation Not For Profit, the entity responsible for the operation of the Condominium.

1.7 **"Association Property"** means all real or personal property, owned or leased by the Association for the use and benefit of the unit owners.

1.8 **"Bay Colony"** means certain real property area within the Northwest part of Pelican Bay described in the Amended and Restated Declaration and General Protective Covenants for Bay Colony recorded in O.R. Book 1461, page 1048, Public Records of Collier County, Florida, and amendments thereto.

1.9 **"Bay Colony Beach Club"** means the Gulf-front Club includes pool, tennis, dining and other facilities in which membership is mandatory for Bay Colony residents pursuant to the Amended and Restated Declaration and General Protective Covenants for Bay Colony.

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1.10 "Bend Neighborhood" means if and as established, a portion of the Bay Colony area and within which The Marquesa is located and which may be identified for administrative purposes as an enhanced service area.

1.11 "Board of Directors" or "Board" or "Directors" means the representative body which is responsible for the administration of the Association's affairs, and is the same body that is sometimes referred to in the Condominium Act as the "Board of Administration". Each Director must be a member, or Primary Occupant (in case of units that are required to designate a Primary Occupant), the spouse of a member or Primary Occupant, the grantor of a trust described in Section 733.707(3), Florida Statutes (2002), or a beneficiary as defined in Section 737.303(4)(b), Florida Statutes (2002), of a trust which owns a Unit, or the spouse of such party.

1.12 "Bylaws" mean the Bylaws of the Association as attached hereto as Exhibit "C".

1.13 "Charge" means any legal or equitable indebtedness to the Association incurred by, or on behalf of, a unit owner, other than assessments for Common Expenses. Said obligations may arise by oral or written contract, by law or in equity, or may be created by these Condominium Documents.

1.14 "Common Elements" mean and include:

1.14.1 The portions of the condominium property not included within the Units.

1.14.2 Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to Units and the common elements.

1.14.3 An easement of support in every portion of a Unit which contributes to the support of the building, including but not limited to all load bearing interior walls within the units.

1.14.4 The property and installations required for the furnishing of utilities and other services to more than one Unit or to the common elements.

1.14.5 Any other parts of the condominium property designated as common elements in this Declaration.

1.15 "Common Expenses" means those expenses for which unit owners are liable to the Association, including but not limited to expenses of administration, maintenance and operation, repair and replacement of common elements and such other expenses as may be declared expenses either by this Declaration, the Articles of Incorporation, the By-Laws or by the Association. Common Expenses include, but are not limited to, such items as cost of premiums for hazard and public liability insurance, repairs, replacements and expenses of upkeep, lawn service, utility bills, pool service, janitor service, accounting and legal fees, wages and fees for managerial and other

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services, and reasonable and adequate reserves, all as may be required in the maintenance and management of this Condominium. The expenses of bulk cable television and bulk interior pest control are specifically considered a common expense. Common expenses also include reasonable insurance for directors and officers, road maintenance and operation expenses, master antenna television, and security services, which are reasonably related to the general benefit of the unit owners even if such expenses do not attach to the common elements or property of the condominium.

1.16 "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, above the amount of the common expenses.

1.17 "Condominium Documents" means this Declaration; the Surveyor's Plat, copies of which are attached hereto as Exhibit "A"; Articles of Incorporation of The Marquesa at Bay Colony Condominium Association, Inc. attached as Exhibit "B"; By-Laws attached hereto as Exhibit "C", Rules and Regulations attached as Exhibit "D".

1.18 "Condominium Parcel" means a Unit together with the undivided share in the Common Elements which is appurtenant to said Unit and when the context permits, the term includes all of the appurtenances to the Unit.

1.19 "Condominium Property" means the land and personal property that are subjected to condominium ownership under this Declaration, all improvements on the land, and all easements and rights appurtenant thereto intended for use in connection with the Condominium.

1.20 "County" means the County of Collier, State of Florida.

1.21 "Declaration" or "Declaration of Condominium" means this instrument, and as it may be amended from time to time.

1.22 "Family" or "Single Family" shall refer to any one of the following:

1.22.1 One natural person, his/her spouse, if any, and their custodial children, if any.

1.22.2 Not more than two natural persons not meeting the requirement of 1.22.1 above, but who customarily reside together as a single housekeeping unit, and the custodial children of said parties, if any.

The reference to "natural" herein is intended to distinguish between an individual and a corporation or other artificial entity.

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1.23 "Fixtures" means those items of tangible personal property which by being physically annexed or constructively affixed to the unit have become accessory to it and part and parcel of it, including but not limited to, interior partitions, walls, appliances which have been built in or permanently affixed, and plumbing fixtures in kitchens and bathrooms. Fixtures do not include floor, wall or ceiling coverings.

1.24 "Guest" means any person who is not the unit owner or a lessee or a member of the owner's or lessee's family, who is physically present in, or occupies the unit on a temporary basis at the invitation of the owner or other legally permitted occupant, without the payment of consideration.

1.25 "Lease" means the grant by a unit owner of a right of use of the owner's unit for consideration.

1.26 "Limited Common Elements" shall include property which is reserved for the use of a certain unit to the exclusion of other units as reflected on the condominium plat or in this Declaration. Whenever a portion of the Condominium Property naturally and exclusively services a particular unit, and where the area in question lies outside of the boundaries of the unit, the delegation of maintenance responsibility for the area (e.g. air conditioning compressors) shall serve to define the area as a limited common element.

1.27 "Pelican Bay" means the lands in Collier County, Florida within the general boundary of U.S. Highway 41 on the East, Vanderbilt Beach Road to the North, the Gulf of Mexico on the West, and Seagate Drive on the South, and such other lands as may be, from time to time, added to or subtracted from such lands.

1.28 "Primary Occupant" means a natural person approved for occupancy of a unit when title to the unit is held in the name of two or more persons who are not husband and wife, or by a trustee or a corporation or other entity which is not a natural person.

1.29 "Rules and Regulations" means those rules and regulations promulgated by the Board of Directors, governing the use, occupancy, alteration, maintenance, transfer and appearance of units, common elements and limited common elements, subject to any limits set forth in the Declaration of Condominium.

1.30 "Unit" means a part of the condominium property subject to exclusive ownership.

1.31 "Unit Owner" or "Owner of a Unit" means the Owner of a condominium parcel.

1.32 "Voting Interest" means and refers to the arrangement established in the Condominium Documents by which the Owners of each Unit collectively are entitled to one vote in the Association matters. There are 39 units, so the total number of voting interests is 39.

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2. STATEMENT OF CONDOMINIUM DECLARATION. WCN Communities, Inc. submitted the property described in Exhibit "A" hereto and as described above to condominium ownership in accordance with Florida Statutes.

3. CONDOMINIUM NAME. The name by which this condominium is identified is "The Marquesa at Bay Colony, A Condominium".

4. UNIT IDENTIFICATION. The identification of each unit shall be by number and shall be as indicated on the Surveyor's Plat, Exhibit "A".

5. SURVEY AND GRAPHIC DESCRIPTION. A survey of the land submitted herewith to condominium ownership and a plat thereof describing each unit, common elements and their relative location and the approximate dimensions of each unit are as shown on the surveyor's plat which is attached as Exhibit "A".

6. VOTING RIGHTS; OWNERSHIP OF COMMON ELEMENTS. The voting rights of the owner of each unit shall be 1/39th (one voting interest per unit). The sharing of common expenses and ownership of common elements and common surplus shall be:

No. of Units	Unit Type	Unit Percentages	Total Percentages
7	01	2.647	18.529
5	01*	2.613	13.065
12	02	2.140	25.680
13	03	2.773	36.049
1	PH 1501	2.745	2.745
1	PH 1502	3.932	3.932
Total			**100.000%**

* 01 Units with modified bedroom 2 closet being Units 201, 301, 501, 801, 1101.

7. COMMON ELEMENTS; EASEMENTS.

7.1 Definition. The term "common elements" means all of the property submitted to condominium ownership that is not within the unit boundaries set forth in Section 8 below. The common elements include without limitation the following.

7.1.1 The Land.

7.1.2 All portions of the building and other improvements outside the units, including all limited common elements.

7.1.3 Easements over, through, above and beneath each unit for conduits, ducts,

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plumbing, wiring and other facilities for furnishing utility services to other units or common elements.

7.1.4 An easement of support in every portion of the Condominium which contributes to the support of the buildings.

7.1.5 The fixtures and installation required for access and utility services to more than one unit or to the common elements.

7.2 **Easements.** The following non-exclusive easements from the Developer (as applicable) each unit owner, to the Association, the Bay Colony Community Association, Inc., the Pelican Bay of Naples Foundation, Inc. and the Pelican bay Services Division of the Collier County Water-Sewer District and their employees, agents and hired contractors, to utility companies, unit owners' families in residence, guests, invitees and to governmental and emergency services, are hereby granted and created:

7.2.1 **Utility and other Easements.** The Association, through the Board of Directors, has the power, without joinder of any unit owner, to grant, modify or move easements such as electric, gas, cable television, or other access, utility or service easements, or relocate any existing easements, in any portion of the common elements or association property, as the Board shall deem necessary or desirable for the proper operation and maintenance of the Condominium. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with the use of the units. The Association, through the Board of Directors, may also transfer title to utility-related equipment, facilities or material, and may take any other action to satisfy the requirements of any utility company or governmental agency.

7.2.2 **Encroachments.** If any unit encroaches upon any of the common elements or upon any other unit for any reason other than the intentional act of the unit owner, or if any common element encroaches upon any unit, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.

7.2.3 **Ingress and Egress.** A non-exclusive easement shall exist in favor of each unit owner and occupant, their respective guests, tenants, licensees and invitees for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portion of the common elements as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portion of the common elements as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways.

7.2.4 **Walkway.** An easement to construct, use, operate and maintain Bay Colony or Bend Neighborhood walkways across condominium property.

7.3 **Restraint Upon Separation and Partition.** The undivided share of ownership on the common elements and common surplus appurtenant to a unit cannot be conveyed or separately

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described. As long as the Condominium exists, the common elements cannot be partitioned. The shares in the funds and assets of the Association cannot be assigned, pledged or transferred except as an appurtenance to the units.

8. CONDOMINIUM UNITS AND APPURTENANCES. Condominium units are those cubicles of space, and all improvements constructed therein identified and described in the Surveyor's Plat, Exhibit "A". The horizontal and vertical boundaries of the condominium units shall be as follows:

8.1 Horizontal Boundaries: The upper and lower boundaries of the units shall be:

8.1.1 Upper Boundary: The planes of the underside of the finished undecorated ceilings of the unit, extended to meet the perimetrical boundaries.

8.1.2 Lower Boundary: The planes of the upperside of the finished undecorated surface of the floors of the unit, extended to meet the perimetrical boundaries.

8.2 Perimetrical Boundaries. The perimetrical boundaries shall be the finished undecorated interior surfaces of the perimeter walls of the unit as shown on the Condominium Plot Plan and the planes of the interior surfaces of the unit's windows, doors and other openings that abut the exterior of the building or common elements including Limited Common Elements.

8.3 Exclusive Use. Each unit owner shall have the exclusive use of his unit.

8.4 Appurtenances. The ownership of each unit shall include, and there shall pass with each unit as appurtenances thereto whether or not separately described, all of the rights, title and interest including but not limited to:

8.4.1 Common Elements. An undivided share of the common elements, such undivided share to be that portion set forth in Article 6 hereof.

8.4.2 Limited Common Elements. The exclusive use (or use in common with one or more other designated units) of the following limited common elements that may exist: Garage parking space(s), storage locker, balcony(s), terrace(s), deck(s), private stairway(s), mechanical rooms serving only one unit and those items set forth in Section 9 exterior to a unit to be maintained by a unit owner. Notwithstanding anything else herein contained, the defined landscaped area surrounding Units 103's terrace shall be a limited common element for Unit 103's use, but shall not be altered by the owners of that Unit and shall be maintained by the Condominium Association as a common expense.

8.4.3 Easements. For the benefit of the unit.

8.4.4 Association Membership and interest in funds and assets held by the Association.

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8.4.5 Automobile Parking Space (for Private Passenger Automobile Only) The privilege of using two assigned parking space within the area designated on the plat for parking.

8.5 Easement to Air Space. The appurtenances shall include an exclusive easement for the use of the air occupied by the unit as it exists at any particular time and as the unit may be altered or reconstructed from time to time.

8.6 Cross Easements. The appurtenances shall include the following easements from each unit owner to each other unit owner and the Association:

8.6.1 Ingress and Egress. Easements through the common elements for ingress and egress.

8.6.2 Maintenance, Repair and Replacement. Easements through, over and beneath the units and common elements for maintenance, repair and replacement of the units and common elements. Such access to the units shall be only during reasonable hours except that access may be had at any time in case of emergency.

8.6.3 Support. Every portion of a unit contributing to the support of the unit building shall be burdened with an easement of support for the benefit of all other units and common elements in the building.

8.6.4 Utilities. Easements over, through, above and beneath the units and other portions of the condominium property for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services to the units and the common elements; provided, however, that such easements through a unit shall be only according to the plans and specifications for the unit building or as the building is constructed unless approved in writing by the unit owner.

9. MAINTENANCE, ALTERATION AND IMPROVEMENTS. Responsibility for the maintenance of the condominium property, and restrictions upon the alteration and improvement thereof, shall be as follows:

9.1 Association Maintenance. Except as specifically provided elsewhere in this Declaration to the contrary, the maintenance, repair and replacement of all common elements and Association property shall be performed by the Association, and the cost is a common expense. Same shall include, but not be limited to, exterior painting, roofing, maintenance of parking and ground floor storage facilities, and maintaining portions of the condominium property exposed to the elements, but shall not include maintenance of screen frames or screening, balcony enclosures, or other portions of the condominium property which exclusively service or benefit a particular unit unless otherwise provided in this section. The Association's maintenance responsibility includes, without limitation; all electrical conduits located outside the unit; plumbing fixtures and installations located outside the unit, other installations located within a unit but serving another unit, or located outside the unit for the furnishing of utilities to more than one unit or the common elements. The

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Association shall be responsible for the maintenance and repair of the drywall constituting the common elements of the Condominium, including the interior surface of the exterior boundary walls, as well as the drywall ceiling of the unit. Decorations of such surfaces (including but not limited to paint, wallpapering, "popcorn", paneling, etc.) are the responsibility of the unit owner. The Association's responsibility does not include interior electrical fixtures, switches or receptacles, plumbing fixtures, or other electrical, plumbing or mechanical installations located within the unit and serving only that unit. If, in connection with the discharge of its maintenance responsibilities, the Association must remove, disassemble, or destroy portions of the Condominium Property which the unit owner is required to maintain, repair, and replace, the Association shall be responsible for reinstallation or replacement of that item, to its unfinished state (i.e. excluding floor coverings, wall coverings, ceiling coverings, paint, wallpaper, paneling, etc.), provided that such items are part of the Condominium Property as originally installed by the Developer, or replacements thereof of like kind and quality. Replacement of all upgrades or additions, even if made by a predecessor in title, shall be the responsibility of the unit owner.

9.2 Unit Owner Maintenance. Each unit owner is responsible, at his own expense, for all maintenance, repairs, and replacements of his own unit and limited common elements serving only his unit, except as provided elsewhere herein, whether ordinary or extraordinary including, without limitation: interior partitions, the finishes thereof, the structural framing related thereto (assuming non-load bearing), and all electrical or plumbing facilities located therein, which service only the individual unit; maintenance, repair and replacement of window, screen door or balcony screens (including hardware and framing); windows, window encasements, and window glass (including sliding glass doors and other glass partitions and the structural components thereof, including trim and caulking); unit front entry door, except that the Association may paint entry doors when it is painting the entire buildings (but not at other times unless otherwise determined by the Association); all other doors and the framing and structural components thereof (including trim, caulking, locks and hardware) within or servicing the unit; the electrical, mechanical and plumbing fixtures and outlets (including connections) within a unit or serving only that unit including sinks, toilets, tubs, showers, shower pans, and all related fixtures and installations; appliances; all portions of the heating and air conditioning equipment and utility installations and connections serving an individual unit (no matter where located); carpeting and other floor covering (including balcony areas); door and window hardware and locks; all other facilities or fixtures located or contained entirely within a unit or limited common element area which serve only that unit. All said areas, if located outside of the boundaries of the unit, are declared limited common elements. Parking facilities shall be maintained by the Association. Any insurance proceeds paid to the Association with respect to any loss or damage within the unit or limited common elements which is covered by the Association's casualty insurance, and which loss would otherwise be borne by the unit owner, shall be paid to the unit owner, after the work has been completed and invoices have been submitted verifying the costs of repair.

9.3 Additional Unit Owner Obligations. In connection with his maintenance, repair and replacement obligations, the unit owner shall have the responsibility to obtain the prior written approval of the Association, through the Board of Directors, before performing any maintenance, repair or replacement which requires: changes or alterations to the physical appearance of the

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condominium property; excavation; access to building roofs; removal or modification of any interior partitions walls, or cabinets, whether load-bearing or not; relocation of plumbing or electrical lines or fixtures; the use of heavy or noisy equipment; such other actions as may cause concern for the peace and safety of the condominium and its residents or the aesthetics of the condominium property. The Association may condition such approval on criteria as the Board deems reasonable, including but not limited to:

- Use of licensed and insured contractors;
- Oversight by the Association or its agent;
- The unit owner submitting plans as to the scope of the contemplated repair;
- Restrictions as to hours of work;
- Imposition of time limits in which jobs must be completed and prohibitions against major renovations during certain times of year.
- Restrictions regarding equipment that may be parked or stored on or near the condominium property during construction.
- Restrictions regarding the transport and storage of materials and supplies necessary for the construction to be performed.

Unit owners may not engage in "extensive" remodeling work or "heavy" construction activity, except with prior approval of the Board of Directors, and then, only during the months of May through October, inclusive. "Extensive" remodeling and "heavy" construction shall be as defined by the Board of Directors from time to time, and shall include but not be limited to activities involving the following:

- Activities involving the use of power equipment such as jackhammers, drills, saws, and the like.
- Activities resulting in the creation of noise that can be heard outside of the unit, regardless of whether power equipment is used or not.
- Activities rendering the unit uninhabitable during the performance of the work.
- Activities requiring the storage of materials or equipment on the premises.
- Activities involving the presence of work crews or significant numbers of workmen.

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- Activities requiring the use of scaffolding, booms, or other forms of exterior access.

The Board may waive the prohibition against such work being done in the months of November through April in the case of an emergency, and may permit the temporary staging of scaffolding for maintenance and repair of hurricane shutters.

Nothing shall preclude the Association from acting as the owner's agent and obtaining the services of Contractors to perform unit owner maintenance responsibilities, provided that the Association and the owner so agree and provided that the owner is deemed to consent to reimbursement of expenses incurred, secured by such rights as exist for collecting common expenses under these condominium documents. Unit owners shall at all times be responsible to ensure, whether or not Association approval is required for work being done within the unit, that all Contractors and other persons performing services for the unit or owner are properly licensed and insured, including required Worker's Compensation insurance. The unit owner shall hold the Association harmless from any claim of any nature arising out of failure to comply with this requirement.

9.4 Balconies and Terraces. Balconies and terraces (collectively "balconies") are designated as a limited common element. The unit owner who has the right to the exclusive use of said balcony shall be responsible for the maintenance, care and preservation of: balcony floor coverings (the Board may prohibit certain types of floor coverings or require the removal of existing coverings when necessary for the structural preservation of the building); the screens and frames; storm shutters and other enclosures; fixed and/or sliding glass doors and affiliated framing and hardware thereof; the wiring, electrical outlet(s) and fixture(s) on or servicing the balcony; ceiling fans; and the replacement of light bulbs. The Association shall be responsible for structural maintenance, repair and replacement of balcony floors, ceilings and exterior portions, and also the building walls enclosed by the balconies, provided that painting and regular maintenance (nonstructural) of building walls enclosed by balconies shall be done by the unit owners, subject to the uniformity of appearance (e.g. color) and other criteria set forth in these condominium documents, or as determined by the Board. However, the Association may, if it elects, paint balcony walls and ceilings in connection with the painting of the building as either a common expense, or on a voluntary participation basis, as determined by the Board of Directors. Unit owners may not puncture (by nails, hooks, screws or otherwise) balcony floors, walls, or ceilings, without obtaining the prior written approval of the Board of Directors.

9.5 Unit Floor Coverings. Except with respect to improvements put in place as of the date of the recording of this Declaration by the Developer, each unit owner who shall elect to install in any portion of his unit hard surface floor covering (i.e., tile, slate, ceramic, parquet, etc.) shall be first required to install a sound absorbent underlayment system of such kind and quality to achieve STC and IIC ratings of at least 47 in the bathrooms and 52 in all other areas; and as the Board shall specify from time to time so as to lessen the transmission of noise to adjoining units, and shall conform to installation practices required by the Board from time to time and shall obtain prior written approval of the Directors of the specifications for the work and then the installed

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soundproofing must be inspected and approved in writing prior to the installation of the hard flooring. If such prior approval is not obtained, the Directors may, in addition to exercising all the other remedies provided for in this Declaration for breach of any of the provision hereof, require such unit owner to cover all non-conforming work with carpeting underlain with carpet padding, or may require removal of such non-conforming work, at the expense of the offending owner.

9.6 Alterations by Unit Owners. No owner may make or permit the making of any modifications or alterations to any portion of his unit visible from the exterior, or in any manner change the appearance of any portion of the condominium visible from the exterior, or make any structural change within the unit interior without first obtaining the written consent of the Board of Directors, which consent shall be denied if the Board determines that the proposed modifications or alterations would adversely affect, or in any manner be detrimental to, the condominium in part or whole. "Structural" alterations include, but are not limited to: installation or relocation of electrical, plumbing, air conditioning or heating installations; installation or relocation of fixtures such as toilets, sinks, tubs, showers, dishwashers, refrigerators, or ranges; the removal or modification of any partition (whether load bearing or not), door, window or screen; raising ceilings; or relocating kitchen or bathroom cabinetry. For purposes of this provision, the term "structural" shall also include the addition, removal, or relocation of any plumbing line or fixture, any electrical line or fixture, or the removal or creation of any interior partition (including but not limited to "wing walls") whether load-bearing or not. Further, "structural" work shall include any and all work that requires a building permit, an electrical permit, a plumbing permit, a mechanical permit, or similar permits from the appropriate governmental agency, whether or not mentioned above. The Board may, in appropriate circumstances, require sealed plans from an Architect or Professional Engineer licensed to practice in Florida as a condition of reviewing any requested structural modification, alteration or addition to the condominium property. The Board, in reaching its decision, may take into account uniformity of appearance, compatibility with architecture in The Marquesa, Bay Colony, and Pelican Bay the quality of the proposed alteration, objections of neighboring residents, and such other criteria as the Board may reasonably adopt in reaching its decision. If the Board determines to permit any alteration or addition which is visible from the exterior of the premises, from any vantage, said addition or improvement must also be approved by the unit owners in the manner provided in Article 9.8 of the Declaration of Condominium, regardless of the cost or expense of such addition or alteration. Permission from the Association for alterations or additions does not excuse compliance with other covenants or approvals which may exist, including required governmental approvals and those required by other governing documents, including but not limited to those disclosed in Article 22 hereof. If any unit owner requests approval of any structural alteration or modification, the Association may permit such removal or modifications if same would not materially affect or interfere with the utility services constituting common elements, if any, located therein, the structural integrity of the building or create a nuisance or disturbance to neighboring units. The Board may also, as a condition of approval, require reimbursement for costs incurred by the Association in addressing such requests, including but not limited to engineering or architectural fees, or attorney's fees.

9.7 Additional Unit Owner Responsibility for Alterations and Additions. If a unit owner makes any modifications, installations, or additions to the interior or exterior of the unit,

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common elements, or limited common elements in accordance with Article 9.6 above, the unit owner (and his heirs, successors in title and assigns) shall be financially responsible for the insurance, maintenance, care, and preservation of the modifications, installations or additions and shall execute such documents as the Association may promulgate accepting said financial responsibility. Any modification, alteration, or addition to the condominium property made by a unit owner, and duly approved by the Board of Directors, may be required to be removed in connection with the Association's maintenance of the condominium property. In such cases, the unit owner who installs the alteration, addition, or improvement (and their successors in title) shall be obligated to reimburse the Association for any costs affiliated with removal and/or re-installation of the item, with said obligation being secured by a right of lien for charges of equal dignity to the common expense lien created by this Declaration, or alternatively, said owner may be required to remove and reinstall said additions, if so determined by the Board of Directors. Further, the Association, its contractors and agents, shall not be liable for any damage to the item arising out of its removal and/or reinstallation, unless occasioned by the gross negligence or willful misconduct of the Association or its contractor or agent.

9.8 Alterations by Association. There shall be no material alterations or substantial additions to the common elements or association real property by the Association, except as authorized by the Board of Directors. Provided, however, that if any such alterations or additions require or obligate the expenditure of Association funds of more than five percent of the Association's budget for the fiscal year in which the work is authorized, including reserves, the Board shall obtain approval of a two-thirds (2/3) of voting interests present (in person or by proxy) and voting at an Association meeting, provided that no alteration may be considered approved unless 26 units have voted with respect to the alteration, whether in favor or opposed. Necessary maintenance of the common elements, or association property regardless of the level of expenditure, is the responsibility of the Board of Directors.

9.9 Enforcement of Maintenance. If, after reasonable notice, the owner of a unit fails to maintain the unit or other portions of the condominium property as required above, the Association shall have, without waiver of other remedies, the right to enter the owner's unit and perform or cause performance of the necessary work, and/or institute legal proceedings at law or in equity to enforce compliance, and/or to take any and all other lawful actions to remedy such violation, in which event the unit owner shall be charged for the costs of such activities (including attorney's fees incurred by the Association) by the Association which shall be secured by a lien for charges.

9.10. Negligence. Damage Caused by Condition of Unit. Each Unit Owner shall be liable to the Association and/or other Unit Owners for the expenses of any maintenance, repair or replacement of the condominium property, made necessary by his act or negligence, or by that of any member of his family or his or their guests, employees, agents, or lessees. If any condition, defect or malfunction within a unit, if caused by the owner's negligence, shall cause damage to the common elements or to other units, the owner of the offending unit shall be liable to the person or entity responsible for repairing the damaged areas for all costs of repair or replacement not paid by insurance (including the deductible) and without waiving any rights of subrogation which may exist.

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If one or more of the units involved is not occupied at the time the damage is discovered, the Association may enter the unit(s) without prior notice to the owner(s) and take reasonable action to mitigate damage or prevent its spread, at the Unit Owner's expense. The Association may, but is not obligated to, repair the damage without the prior consent of the owner, in the event of an emergency, and the owner shall be responsible for reimbursement of the Association, with the cost being secured by a lien for charges.

9.11 Service and Maintenance Contracts. If there shall become available to the Association:

9.11.1 a program of contract maintenance for items which are located within the units and otherwise the responsibility of the unit owner, such as water heaters and/or air-conditioning compressors and/or air handlers and related equipment serving individual units; or

9.11.2 certain contract services to be delivered within the units for items otherwise the responsibility of the unit owner, such as pest control or cable television; the Board may enter into any such contracts which the Board determines are to the benefit of the owners generally. The expenses of such contractual undertakings to the Association shall be a common expense, provided that the Association may contract for bulk cable television on an equal basis, as permitted by law. All maintenance, repairs and replacements not covered by the contracts shall remain the responsibility of the unit owner. Because the expenses are common expenses, an election by a unit owner not to take advantage of the services or maintenance provided by such contracts shall not excuse the owner from paying his share of the cost.

10. ASSESSMENTS AND CHARGES. Assessments against owners shall be made by the Board of Directors of the Association, in the manner provided in the By-Laws and as follows, and shall be borne by the unit owners on the same basis as their percentage of ownership of the entire condominium as set forth in Article 6.

10.1 Liability for Assessments. A Unit Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all assessments coming due while he/she is the Unit Owner. The grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor for his/her share of the common expenses including attorney's fees and other costs of collection incurred by the Association up to the time of the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee. The liability for assessments may not be avoided by waiver of the use or enjoyment of any common elements or by the abandonment of the Unit for which the assessments are made.

10.2 Default in Payment of Assessments for Common Expenses. Assessments and installments thereof not paid within ten (10) days from the date when they are due shall incur a late fee and bear interest in an amount as determined by the Board of Directors up to the maximum allowed by law. The Board may accelerate unpaid assessments in the manner prescribed by law. The Association has a lien on each condominium parcel for any unpaid

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assessments on such parcel, with interest, late charges and for reasonable attorney's fees and costs incurred by the Association incident to the collection of the assessment or enforcement of the lien. The lien is in effect until all sums secured by it have been fully paid or until barred by law. A claim of lien shall be signed and acknowledged by an officer or agent of the Association. Upon recording, the Association's claim of lien shall relate back to the date of the filing of the original Declaration of Condominium. Upon payment the condominium parcel is entitled to a satisfaction of the lien. The Association may bring an action in its name to foreclose a lien for assessments in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien.

10.3 Notice of Intention to Foreclose Lien. No foreclosure judgment may be entered until at least thirty (30) days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid assessments. If this notice is not given at least thirty days before the foreclosure action is filed, and if the unpaid assessments, including those which have been accelerated (if applicable) and those coming due after the claim of lien is recorded, are paid before the entry of a final judgment or foreclosure, the Association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the Unit owner or by certified mail, return receipt requested, addressed to the Unit Owner. If after diligent search and inquiry the Association cannot find the Unit Owner or a mailing address at which the Unit Owner will receive the notice, the court may proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this sub- section are satisfied if the Unit Owner records a Notice of Contest of Lien as provided in the Act.

10.4 Appointment of Receiver to Collect Rental. Notwithstanding any other remedy available to the Association under this Declaration, the By-Laws, or applicable law, the Association shall have the following options when payment of assessments are in default (more than thirty days in arrears). The Association may, without order of the court, direct rental income (by written notice to the tenant with copy to owner) from units in default to be paid directly to the Association until all outstanding assessments, interest, costs and attorney's fees and receiver's fees if applicable are satisfied. As an alternative, the Association may apply to a court of competent jurisdiction, either in connection with the institution of a foreclosure suit, a personal suitor otherwise to have rental proceeds paid on account of a unit in default paid directly to the Association, the court registry, or a receiver, as the court may direct. The Association may choose any of these courses of action as the Board deems appropriate without same constituting a waiver or election of remedies.

10.5 First Mortgagee. The priority of the Association's lien and the obligation for payment of past due assessments in relation to first mortgagees who obtain title as a result of foreclosure or deed in lieu of foreclosure, shall be determined by the Florida Condominium Act, Chapter 718, Florida Statutes (2002), as amended from time to time.

10.6 Possession of Unit. Any person who acquires an interest in a Unit, except First Mortgagees through foreclosure of a first mortgage of record (or deed in lieu thereof), including

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without limitation persons acquiring title by operation of law, shall not be entitled to occupancy of the Unit or enjoyment of the common elements until such time as all unpaid assessments and other charges due and owing by the former Owner, if any, have been paid. Possession shall be subject to all other Association requirements pertaining thereto.

10.7 Certificate of Unpaid Assessments. Any Unit Owner has the right to require from the Association a certificate showing the amount of unpaid assessments against him/her with respect to his/her Unit.

10.8 Lien For Charges. There is hereby created a common law and contractual lien to secure any service which the Association provides for an individual member and which is not otherwise secured by the statutory lien for common expenses created herein. By way of example, but not limitation, a lien for charges exists to secure repayment to the Association when it must remove or reinstall unit owner alterations or items of unit owner maintenance responsibility in connection with the Association's discharge of its common element maintenance responsibilities. The lien for charges shall be of equal priority to, shall be secured as to interest, late fees and attorney's fees and the like, and shall be foreclosed in the same manner as the common expense lien.

11. ADMINISTRATION AND MANAGEMENT OF CONDOMINIUM. The administration and management of the condominium shall be by the Condominium Association, which shall have by and through its officers and directors, such powers, authority and responsibilities as are vested in the officers and directors of a corporation not-for-profit under the laws of the State of Florida, including but not limited to those set forth more specifically elsewhere in the Condominium Documents. The Association shall have authority to enter into management and other agreements concerning the matters of common interest through its officers. The management of the Association and election of the members to the Board of Directors shall be as set forth in the By-Laws. Without limiting the foregoing, the Association shall have the following powers and duties:

11.1. Access. The Association has an irrevocable right of access to units during reasonable hours when necessary for the purposes of maintenance, repair and replacement of common elements or of any portion of a unit to be maintained by the Association pursuant to this Declaration or for making emergency repairs which are necessary to prevent damage to the common elements or to another unit or units. The Association's right of access to a unit shall be exercised after reasonable notice to the unit owners, unless such notice is not possible or practical under the circumstances, and with due respect for the occupants' rights to privacy and freedom from unreasonable annoyance, as well as with reasonable precautions to protect the personal property within the unit. The Association requires and shall retain a pass-key to all units. No unit owner shall alter any lock, nor install a new lock, to prevent access when the unit is unoccupied, unless the unit owner provides the Association with a key.

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11.2 Assessments. The power to make and collect regular and special assessments and other charges against Unit Owners and to lease, maintain, repair and replace the common elements.

11.3 Recordkeeping. The duty to maintain accounting records according to good accounting practices, which shall be open to inspection by Unit Owners or their authorized representatives at reasonable times.

11.4 Delegation. The power to enter into contracts with others, for valuable consideration, for maintenance and management of the condominium property and in connection therewith, or to its officers and agents, to delegate the powers and rights herein contained, including, without limitation, the making and collecting of assessments and other charges against Unit Owners, and perfecting liens for non-payment thereof.

11.5 Regulations. The power to adopt and amend Rules and Regulations covering the details of the operation of the Association and use of the condominium property.

11.6 Acquisition or Transfer of Real Property; Leasing Common Elements and Association Property. The power to acquire or transfer real property or otherwise convey and mortgage real property for the use and benefit of its members with the same approval of unit owners as needed to amend the Declaration. No unit owner shall be required to purchase (or mortgage) a unit through foreclosure, deed in lieu of foreclosure, or in connection with the Association's right of first refusal set forth in Article 17 hereof. Leasing of units, common elements or Association property may be approved by the Board of Directors, as well as the lease fees, use fees, and other fees permitted by the Act, the Condominium Documents, or as authorized by the Board of Directors.

11.7 Membership Agreements. The power to enter into agreements to acquire leaseholds, memberships, and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas, and other recreational facilities with the same approval of unit owners as needed to amend the Declaration.

11.8 Lease of Association Property or Common Elements. The power to lease Association Property or Common Elements, as determined by the Board of Directors. No use fee may be charged against a unit owner for use of the Common Elements or Association Property except fees set by the Board pertaining to an owner having exclusive use of the Common Elements or Association Property, or as agreed by the Association and the party leasing Association Property or Common Elements, pursuant to an oral or written lease agreement.

11.9 Limitation upon Liability of Association. Notwithstanding the duty to maintain and repair parts of the Condominium Property, the Association is not liable to Unit Owners or any other person for injury or damage, other than for the cost of maintenance and repair of items for which the Association is otherwise responsible, caused by any latent or unknown condition of

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the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any alterations or improvements done by or on behalf of any Unit Owner, regardless of whether or not same shall have been approved by the Association pursuant to the provisions hereof.

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

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

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

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

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EACH UNIT OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS UNIT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE CONDOMINIUM PROPERTY (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS PROVISION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS PROVISION.

AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS.

11.10 Restraint upon Assignment of Shares in Assets. The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his/her Unit.

12. INSURANCE. The insurance which shall be carried upon the Condominium Property, including the Units, Common Elements and Association Property shall be as follows:

12.1 Authority to Purchase Insurance. All insurance policies shall be purchased by the Association for the benefit of the Association and the Unit Owners and their mortgagees as their respective interests may appear.

12.2 Coverage.

12.2.1 Casualty. Except as otherwise provided herein, the Association shall obtain and maintain fire and extended coverage insurance with a responsible insurance company, or through alternate sources as may be available, upon all of the insurable improvements of the entire Condominium, including Association Property, the Common Elements, the Units, and the personal property of the Association, for the full replacement or insurable value thereof, less a commercially reasonable deductible, provided the Board may exclude foundation and excavation costs in its discretion. Notwithstanding the foregoing requirement, the Association, through its Board of Directors, will have fulfilled its duty to obtain insurance coverage if it obtains and maintains such insurance coverage as may be available from time to time given market and economic conditions, provided such coverage shall always meet the minimum level of adequate coverage required by Section 718.111(11), Florida Statutes (2002), as amended from time to time. The original policy of insurance shall be held by the Association, and Institutional Lenders shall be furnished, upon request, mortgage endorsements covering their respective interests. Each Unit Owner shall be responsible for insuring personal property located within the Unit; ceiling, floor and wall coverings, and electrical fixtures, appliances, air conditioning and heating equipment, water heater, and built-in cabinets to the extent these items are located within the Unit boundaries; and any improvements

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made within the Unit which are not covered by the Association policy. The owners shall also be responsible to insure any portion of the Condominium Property which may be removed from Association insurance responsibilities by virtue of future amendments to Section 718.111(11), Florida Statutes (2002).

12.2.2 Liability Insurance. The Association shall obtain and maintain public liability insurance covering all of the Common Elements and Association Property and insuring the Association and the Unit Owners as their interest may appear in such amount as the Board of Directors may deem appropriate. The Board of Directors shall have authority to compromise and settle all claims against the Association. Each Unit Owner will be responsible for procuring and maintaining liability insurance covering losses which may occur in and about the owner's Unit, as the Owner may deem appropriate.

12.2.3 Worker's Compensation. Such worker's compensation coverage as may be required by law.

12.2.4 Other Insurance. Such other insurance as the Board of Directors may from time to time deem to be necessary, including but not limited to Errors and Omissions Officers and Directors Liability insurance coverage, flood insurance, and insurance for the benefit of its employees.

12.3 Deductible and Other Insurance Features. The Board of Directors shall establish the amount of the deductible under the insurance policies, and other features, as they deem desirable and financially expedient, in the exercise of their business judgment.

12.4 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense.

12.5 Insurance Shares or Proceeds. Insurance proceeds of policies purchased by the Association covering property losses shall be paid to the Association, and all policies and endorsements thereon shall be deposited with the Association. The duty of the Association shall be to receive such proceeds as are paid and to hold and disburse the same for the purposes stated herein and for the benefit of the Unit Owners and their mortgagees in the following shares:

12.5.1 Common Elements. Proceeds on account of damage to Common Elements - an undivided share for each Unit Owner, such share being the same as the undivided share in the Common Expenses appurtenant to the Unit.

12.5.2 Unit. Proceeds on account of damage to Units shall be held in the following undivided shares:

12.5.2.1 When the Condominium Building is to be restored - for the Owners of damaged Units in proportion to the costs of repairing the damage suffered by each Unit Owner, which cost shall be determined by the Association.

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12.5.2.2 When the Condominium Building is not to be restored - an undivided share for each Unit Owner, such share being the same as the undivided share in the Common Expenses appurtenant to the Unit.

12.5.3 Mortgages. In the event a mortgage endorsement has been issued as to a Unit, the share of that Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds, except those proceeds paid to the Unit Owner and mortgagee, pursuant to the provisions of this Declaration.

12.6 Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be distributed in the following manner:

12.6.1 Reconstruction or repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial Owners, remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of any Unit and may be enforced by such mortgagee.

12.6.2 Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial Owners, remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

12.7 Association as Agent. The Association is irrevocably appointed agent for each Unit Owner and for each Owner of a mortgage or other lien upon any Unit and for each Owner of any other interest in the Condominium Property or any property in which the Association owns an interest, to adjust all claims arising under insurance policies by the Association, and to execute and deliver releases upon the payment of such claim.

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

13.1 Damage to Units. Where lost or damage is only to those parts of a unit for which the responsibility of maintenance and repair is that of the unit owner, any Association insurance proceeds on account of the damage, less the deductible, shall be distributed to such contractors, suppliers and personnel for work done, materials supplied or services required for reconstruction or repair. Payments shall be in such amounts and at such times as the unit owners may direct. The

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owners of damaged units shall be responsible for reconstruction and repair and shall bear the cost thereof, if any, in excess of the insurance proceeds.

13.2 Damage to Common Elements - Less Than "Very Substantial". Where loss or damage occurs to the common elements, but the loss is less than "very substantial", as hereinafter defined, it shall be mandatory for the Association to repair, restore or rebuild the damage caused by the loss, and the following shall apply:

13.2.1 Estimates. The Board of Directors of the Association shall promptly obtain reliable and detailed estimates of the cost of reconstruction and repair, and shall negotiate and contract for the work.

13.2.2 Insurance Insufficient. If the net proceeds of insurance plus available reserves are insufficient to pay for the cost of reconstruction and repair of the common elements, the Association shall promptly, upon determination of the deficiency, levy a special assessment against all unit owners. Such special assessments need not be approved by the unit owners. The special assessments shall be added to the proceeds available for reconstruction and repair of the property.

13.2.3 "Very Substantial" Damage. As used in this Declaration, the term "very substantial" damage shall mean loss or damage whereby three-fourths (3/4) or more of the total units are rendered uninhabitable. Should such "very substantial" damage occur, then:

13.2.3.1 Owners' Meeting. A meeting of the Association shall be called by the Board of Directors to be held within a reasonable time after the casualty. A determination by the Board of Directors as to what is a reasonable time shall be conclusive. The purposes of the meeting shall be to determine the wishes of the membership with reference to reconstruction or termination of the condominium, subject to the following:

13.2.3.1.1 Insurance Sufficient. If the insurance proceeds and reserves available for reconstruction and repair are sufficient to cover the cost thereof, so that no special assessment is required, then the condominium property shall be reconstructed or repaired unless the then applicable zoning or other regulatory laws will not allow reconstruction of the same number and general type of units, in which case the condominium shall be terminated pursuant to Paragraph 19.2.

13.2.3.1.2 Insurance Insufficient. If the insurance proceeds and reserves available for reconstruction and repair are not sufficient to cover the cost thereof so that a special assessment will be required, then unless 67% of the voting interests of the Association vote in favor of such special assessment and against termination of the condominium, it shall be terminated pursuant to Paragraph 19.2. If 67% of the voting interests of the Association approve the special assessment, the Association, through its Board, shall levy such assessment and shall proceed to negotiate and contract for such reconstruction and repairs. The special assessment shall be added to the proceeds of insurance and reserves available for reconstruction and repair of the property.

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

13.3 Application of Insurance Proceeds. It shall be presumed that the first monies disbursed for reconstruction and repair shall be from the insurance proceeds and they shall first be applied to reconstruction of the common elements and Association property and then to the units; if there is a balance in the funds held by the Association after the payment of all costs of reconstruction or repair, such balance shall be distributed to the Association. Provided, however, if special assessments were made pursuant to Paragraph 13.2.3.1.2 hereof, then all or part of such balance shall be returned to the unit owners paying said assessments pro-rata, according to the amount each paid, up to the full amount each paid, then to the Association.

13.4 Equitable Relief. In the event of substantial damage to the condominium property, and if the property is not reconstructed or repaired within a reasonable period of time, any unit owner may petition a court for equitable relief, which may include a termination of the condominium and a partition. For the purposes of this provision, it shall be conclusively presumed that reconstruction or repair has occurred within a reasonable period of time if substantial work is commenced within such time following the damage or destruction as is determined by the Board of Directors to be reasonable and the work proceeds without intentional and unwarranted delay to completion.

13.5 Plans and Specifications. Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the original buildings, or in lieu thereof, according to plans and specifications approved by the Board of Directors and by the owners of 67% of the voting interests of the Association and the Design Review Committee of the Bay Colony Community Association.

14. USE RESTRICTIONS. Use of the property submitted for condominium ownership shall be in accordance with the following use restrictions and reservations:

14.1 Occupancy of Units; Single Family Residence. A condominium unit shall be used only as a single family residence. As used in the Condominium Documents, "single family" means one natural person, a group of two or more natural persons who customarily reside together as a single family housekeeping unit, each of whom is related to each of the others by blood, marriage or adoption, or not more than two persons not so related, who customarily reside together as a single housekeeping unit. If a Unit Owner is a corporation, partnership, trust, some other entity, or more than one individual who are not husband and wife, the record owner shall designate a Primary Occupant, who (along with his or her spouse) shall be considered the Unit Owner for all purposes contemplated by the Condominium Documents. The Primary Occupant may not be changed more than one time during a twelve month period, except in connection with the bona fide transfer of a Unit to a third party. Units which are owned by entities or multiple individuals, as described above, as of the effective date of this provision (recordation in the Collier County Public Records) shall be obligated to designate a Primary Occupant within thirty (30) days hereof. No unit may be

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permanently occupied by more persons than the number of bedrooms times two, nor may more persons, including guests, occupy a unit overnight than the number of bedrooms times two, plus two. For purposes of these Condominium Documents, "permanently occupy" means to sleep in the unit for more than thirty (30) nights during a calendar year. No unit may be divided or subdivided into a smaller unit nor any portion sold or otherwise transferred. No person may occupy a unit as a Unit Owner, tenant, or family member thereof (i.e. occupy the unit on an overnight basis for more than thirty (30) days in a calendar year) unless said person's occupancy has been specifically approved by the Association, through the Board of Directors. In considering such requests, the Board may consider factors set forth in Articles 16 and 17 hereof, and may charge a reasonable fee for review of occupancy requests. Visitation by guests are governed by Article 15 of this Declaration of Condominium. Units may not be used for commercial or business purposes. Owners (and their family members and tenants) may use Units for "home office" or "telecommuting" purposes, provided that such uses do not involve customers or clients coming into the Condominium, the postage of any signage in the Condominium, the storage of equipment, products, or materials in the Condominium.

14.2 Nuisance. The condominium units shall not be used for any immoral, improper or unlawful purpose and no use or behavior shall be allowed which will create a public or private nuisance, nor which shall unreasonably interfere with the quiet possession or enjoyment of the condominium property, nor which becomes a source of annoyance to the condominium residents. All property shall be kept in a neat and orderly manner. The common elements shall be used for the purpose of furnishing services and facilities as herein provided for the welfare and enjoyment of such residents. The Condominium Property shall be used in accordance with all federal, state, and local laws and ordinances.

14.3 Parking. Each unit shall have two allocated parking spaces in the garage. Allocations were made initially by the Developer by an unrecorded written instrument given to Purchaser at closing. Later, in the event that two or more unit owners wish to exchange a space or spaces, they may do so by surrendering their allocation instruments to the Secretary of the Association who shall re-issue allocation instruments above his signature, reflecting the exchange; provided that each unit shall at all times have no less than two spaces. Allocations may only be changed with the written consent of the holder provided, however, that the Association shall have the absolute right to make allocations of spaces in the garage to accommodate the needs of handicapped persons. Allocated spaces while allocated shall constitute Limited Common Elements appurtenant to units. No non-unit owner shall hold a parking space allocation and allocated spaces shall pass with the title to the unit.

14.4 Pets. The owner of each unit may keep one (1) dog no more than 15 inches tall at the shoulder at maturity, or two cats and no more than two (2) birds, and tropical fish in the unit. The pet must be carried under the owner's arm or be leashed at all times while on the condominium property outside of the unit. The ability to keep such a pet is a privilege, not a right, and the Board of Directors is empowered to order and enforce the removal of any pet which becomes a source of unreasonable annoyance to other residents of the Condominium. No pets of any kind are permitted

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in leashed units, and guest shall not be permitted to have pets. No reptiles, monkeys, rodents, amphibians, poultry, swine or livestock may be kept in the Condominium.

14.3 Additional Restrictions. Attached as Exhibit "D" are the Rules and Regulations, which may be amended from time to time by the Board of Directors. Amendments to the Rules and Regulations may, but need not be recorded in the Public Records. Additional use restrictions are also contained elsewhere in the Condominium Documents.

15. GUEST OCCUPANCY. A "guest" is defined as a person who enters upon the condominium property at the invitation of a Unit Owner, Primary Occupant, or tenant, (or their respective families) for the purpose of visiting the Unit Owner, Primary Occupant, or tenant (or their respective families), occupying the condominium unit on a temporary basis (i.e. other than as the person's domicile). Use or visitation without consideration (payment) distinguishes a guest usage from a tenancy.

For purposes of this section, a "guest" may be "related" or "unrelated". A "related guest is defined as someone related to the Unit Owner or Primary Occupant by blood, marriage, or adoption. An "unrelated guest" is someone other than those related to the Unit Owner or Primary Occupant by blood, marriage, or adoption.

There are various types of guest uses, which are regulated as follows:

15.1 Non-Overnight Visitation by Guests When Unit Owner, Primary Occupant or Tenant is in Residence. There is no restriction against this type of guest usage, whether related or unrelated, provided that same does not create a nuisance or annoyance to other condominium residents, nor prevent their peaceful enjoyment of the premises. The Association may restrict or prohibit guest visitation by convicted felons, including but not limited to registered sex offenders and persons who have been convicted of narcotic offenses. Non-overnight guests need not be registered with the Association. Non-overnight guests shall be entitled to use the Condominium facilities only when accompanied by the Unit Owner (or Primary Occupant) or tenant (or an adult resident member of the Unit Owner's, Primary Occupant's or tenant's family). The Board may establish additional restrictions on non-overnight guest usage of Condominium facilities, such as maximum numbers of guests who may use common facilities, maximum numbers of common facility usage per guest, and the like.

15.2 Overnight Guests When Unit Owner, Primary Occupant or Tenant is in Residence. Unit Owners, Primary Occupants and tenants (and their respective families) may have related or unrelated overnight guests, so long as the Unit Owner, Primary Occupant or tenant is in simultaneous residence. The Association may restrict or prohibit guest visitation by convicted felons, including by not limited to registered sex offenders and persons who have been convicted of narcotic offenses. Under no circumstances may more than eight (8) persons (including the Unit Owner, Primary Occupant or tenant, and their families) sleep overnight in a three (3) bedroom unit, and no more than six (6) people in a two (2) bedroom unit. Overnight guests' use of Condominium

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facilities is subject to the same provisions as use of Condominium facilities by Non-Overnight Guests.

15.3 Non-Overnight Guests in the Absence of the Unit Owner, Primary Occupant or Tenant. Unit Owners, Primary Occupants and tenants are not permitted to have non-overnight guests, whether related or unrelated, when the Unit Owner, Primary Occupants or tenant is absent from the condominium. Unit Owners, Primary Occupants and tenants may have their units inspected by caretakers, family members, etc. However, such individuals shall not be permitted to use Condominium facilities, such as recreational facilities (pool, recreational facilities, exercise room, etc.).

15.4 Overnight Guests in the Absence of the Unit Owner, Primary Occupant or Tenant. Tenants are not permitted to have overnight guests, whether related or unrelated, in the absence of the tenants' simultaneous residence. Unit Owners and Primary Occupants are permitted to have related overnight guests in the absence of the Unit Owner or Primary Occupant without restriction. Unit Owners and Primary Occupants are permitted to have unrelated overnight guests in the absence of the Unit Owner or Primary Occupant subject to the following conditions, and such other rules and regulations as may be deemed necessary by the Board to effectuate the residential, non-transient nature of this Condominium.

15.4.1 Unrelated Overnight Guests in the Absence of the Unit Owner or Primary Occupant. Unit Owners and Primary Occupants are permitted to have unrelated overnight guests in the absence of the Unit Owner or Primary Occupant on not more than two (2) occasions during each calendar year, for no more than seven (7) consecutive nights on each occasion. Ten (10) days prior notice to the Association is required on each occasion.

15.5 Additional Board Authority. The Board may promulgate such rules, policies, and procedures as are necessary to implement this Article. In the event that Unit Owners or Primary Occupants are suspected of circumventing rental restrictions by receiving consideration for occupancies which are held out as guest occupancies, the Association may require proposed guest occupants to submit proof of familial/relationship, an affidavit as to absence of payment for the right to occupy the premises, and the like.

16. LEASING. The lease of a unit is defined as occupancy of the unit by any person other than the unit owner, whether pursuant to verbal or written agreement, where said occupancy by the non-owner involves consideration (the payment of money, the exchange of goods or services, etc.). The term "leasing" and "renting" shall be used interchangeably for the purpose of this Declaration of Condominium. The term "tenant" and "lessee" shall likewise be used interchangeably. Should a unit owner wish to lease his unit, he shall furnish the Association with a copy of the proposed lease and the name of the proposed lessee, as well as all proposed occupants. The Association shall have thirty (30) days from the receipt of notice within which to approve or disapprove of the proposed lease or proposed lessees or occupants. The Association shall give the unit owner written notice of its decision within said period. Failure to notify the unit owner shall be deemed an approval. No individual rooms may be rented and no transient tenants may be accommodated. "Rent-sharing"

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and subleasing is prohibited. No unit may be leased more often than once in any period of twelve (12) consecutive months. All leases shall be for a minimum period of ninety (90) consecutive days and for a maximum period of one (1) year. Leases may be renewed with approval of the Board of Directors.

16.1 Board Right of Approval. The Board of Directors shall have the authority to approve all leases and renewals or extensions thereof, which authority may be delegated to a committee or agent. No person may occupy a unit as a tenant, family member of a tenant, or otherwise without prior approval of the Board of Directors. The Board shall have the authority to promulgate or use a uniform lease application and require such other information from the proposed tenant and all proposed occupants as the Board deems appropriate under the circumstances. The Board may require an interview of any proposed tenant and their spouse, if any, and all proposed occupants of a unit, as a condition for approval.

16.2 Tenant Conduct, Remedies. All leases shall be on a uniform form of lease or lease addendum if so promulgated by the Association. Uniform leases, addenda and all other leases will provide or be deemed to provide that the tenants have read and agreed to be bound by the Declaration of Condominium, Articles of Incorporation, By-Laws and Rules and Regulations as the same may be amended from time to time (the "Condominium Documents"). The uniform lease or addendum and other leases shall further provide or be deemed to provide that any violation of the Condominium Documents shall constitute a material breach of the lease and subject the tenant to eviction as well as any other remedy afforded by the Condominium Documents or Florida law. If a tenant fails to abide by the Condominium Documents, the unit owner(s) shall be responsible for the conduct of the tenant and shall be subject to all remedies set forth in the Condominium Documents and Florida law, without waiver of any remedy available to the Association as to the tenant. The unit owner shall have the duty to bring his tenant's conduct into compliance with the Condominium Documents by whatever action is necessary, including without limitation the institution of eviction proceedings without notice to cure, where legally permissible. If the unit owner fails to bring the conduct of the tenant into compliance with the Condominium Documents, the Association shall have the authority to act as agent of the unit owner to undertake whatever action is necessary to abate the tenants' noncompliance with the Condominium Documents, including without limitation the right to institute an action for eviction against the tenant in the name of the Association, or as agent of the unit owner. The Association shall have the right to recover any costs or fees, including attorney's fees, incurred in connection with such actions from the unit owner which shall be secured by a continuing lien in the same manner as assessment charges.

16.3 Security Deposit. The Board of Directors shall have the authority, as a condition of granting approval to a lease or renewal or extension thereof, to require that a prospective lessee or unit owner place a security deposit in an amount not to exceed the equivalent of one month's rent into an escrow account maintained by the Association to protect against damage 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 of the Florida Statutes (2002) as amended from time to time.

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16.4 Approval Process, Disapproval. Any unit owner intending to lease his unit shall submit an application and any other requested information and fees at least thirty (30) days in advance of the commencement of the lease or renewal or extension term. Upon receipt of all information and fees required by Association, the Association shall have the duty to approve or disapprove all proposed leases within thirty (30) days of receipt of such information for approval and the completion of the tenant interview (if required), by sending written notification to the unit owner within such time frame. All requests for approval not acted upon within thirty (30) days shall be deemed approved. Applications for renewals or extensions of lease agreements shall be submitted at least thirty (30) days in advance of the expiration of the lease agreement. If the Association disapproves a proposed lease or renewal or extension, the unit owner shall receive a short statement indicating the reason for the disapproval, and the lease shall not be made, renewed or extended. The Association shall neither have a duty to provide an alternate lessee nor shall it assume any responsibility for the denial of a lease application if any denial is based upon any of the following factors:

16.4.1 The person seeking approval (which shall hereinafter include all proposed occupants) has been convicted of a crime involving violence to persons, a crime demonstrating dishonesty or moral turpitude or any felony;

16.4.2 The application for approval on its face, facts discovered in connection with the Association's investigation, or the conduct of the applicant, indicate that the person seeking approval intends to conduct himself in a manner inconsistent with the Condominium Documents. By way of example, but not limitation, a tenant taking possession of the premises prior to approval by the Association as provided for herein shall constitute a presumption that the applicant's conduct is inconsistent with the Condominium Documents;

16.4.3 The person seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in other housing facilities or associations, or by his conduct in this Condominium as a tenant, unit owner or occupant of a unit;

16.4.4 The person seeking approval has failed to provide the information, fees or appearances required to process the application in a timely manner;

16.4.5 All assessments, fines and other charges against the unit and/or unit owner have not been paid in full.

16.5 Liability. The liability of the unit owner under the Condominium Documents shall continue notwithstanding the fact that he may have leased or rented his interest in the unit as provided herein.

16.6 Association Fee. The unit owner or lessee seeking approval of a lease of a unit shall pay a transfer fee for each applicant in an amount determined by the Board but not exceeding the maximum permitted by law per transaction. No charge shall be made in connection with an extension or renewal of a lease.

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17. MAINTENANCE OF COMMUNITY INTERESTS. In order to maintain a community of congenial Unit Owners who are financially responsible, and thus protect the value of the Units, the use and transfer of Units by any owner shall be subject to the following provisions as long as the Condominium exists upon the land, which provisions each Unit Owner covenants to observe:

17.1 Forms of Ownership:

17.1.1 Ownership By Individuals. A unit may be owned by one natural person who has qualified and been approved as elsewhere provided herein.

17.1.2 Co-Ownership. Co-ownership of units may be permitted. If the co-owners are other than husband and wife, the Board shall condition its approval upon the designation of one approved natural person as "primary occupant." The use of the unit by other persons shall be as if the primary occupant was the only actual owner. Any changes in the primary occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of the Condominium Documents. No more than one such change will be approved in any calendar year. No time share estates may be created. "House Sharing" by multiple families is prohibited. Units which are owned by entities or multiple individuals, as described above, as of the effective date of this provision (recordation in the Collier County Public Records) shall be obligated to designate a Primary Occupant within thirty (30) days hereof.

17.1.3 Ownership by Corporations, Partnerships or Trusts. A unit may be owned in trust, or by a corporation, partnership or other entity which is not a natural person, if approved in the manner provided elsewhere herein. The intent of this provision is to allow flexibility in estate, financial or tax planning, and not to create circumstances in which the unit may be used as a short-term or transient accommodations for several individuals or families. The approval of a partnership, trustee, or corporation or other entity as a Unit Owner shall be conditioned upon designation by the owner of one natural person to be the "primary occupant." The use of the unit by other persons shall be as if the primary occupant were the only actual owner. Any change in this primary occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of the Condominium Documents. No more than one such change will be approved in any twelve (12) month period. Units which are owned by entities or multiple individuals, as described above, as of the effective date of this provision (recordation in the Collier County Public Records) shall be obligated to designate a Primary Occupant within thirty (30) days hereof.

17.1.4 Life Estate. A unit may be subject to a life estate, either by operation of law or by a voluntary conveyance approved as provided below. In that event, the life tenant shall be the only member from such unit, and occupancy of the unit shall be as if the life tenant were the only owner. The life tenant shall be liable for all assessments and charges against the unit. Any vote, consent or approval required by the Condominium Documents or law may be given by the life tenant alone, and the vote, consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-owners as described in Article 17.1.2 for purposes of determining voting and occupancy rights.

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17.2 Transfers Subject to Approval.

17.2.1 Sale or Other Transfer. No Unit Owner may dispose of a Unit or any interest in same by sale or other title transfer, without prior written approval of the Board of Directors. No Unit Owner may dispose of a Unit or any interest therein by other means (including agreement for deed, installment sales contract, lease-option or other similar transactions) without prior written approval by the Board of Directors.

17.2.2 Gift. If any Unit Owner shall acquire his title by gift, the continuance of his ownership of his Unit shall be subject to the approval of the Board of Directors. Notice must be given at least forty-five (45) days prior to the intended closing or title transfer date.

17.2.3 Devise or Inheritance. If any Unit Owner shall acquire his title by devise or inheritance, the continuance of his ownership of his Unit shall be subject to the approval of the Board of Directors. If any Unit Owner acquires his title by devise or inheritance, his right to occupy or use the unit shall be subject to the approval of the Board of Directors. Approval to own or occupy may not be denied to any devisee or heir who was the prior owner's lawful spouse at the time of death, or was related to the deceased owner by blood or by adoption.

17.2.4 Other Transfers. If any Unit Owner shall acquire his title by any manner not considered in the foregoing subsections, the continuance of his ownership of such unit shall be subject to the approval of the Board of Directors. If any person acquires title in any manner not considered in the foregoing subsections, that person shall have no right to occupy or use the unit before being approved by the Board of Directors under the procedures outlined below.

17.3 Approval by Association. The approval of the Association that is required for the transfer of ownership of Units shall be obtained in the following manner:

17.3.1 Notice to Board of Directors.

17.3.1.1 Sale. A Unit Owner intending to make a bona fide sale of his Unit or any interest in it shall give to the Board of Directors notice of such intention, together with the name and address of the intended purchaser, an executed copy of the purchase contract and its exhibits and such other information concerning the intended purchaser and the transaction as the Board of Directors may reasonably require. The Board may require, without limitation, credit history, a criminal background investigation, past residency or employment verification, personal references, and a personal interview with the purchaser(s) and all proposed unit occupants. Such notice at the Unit Owner's option may include a demand by the Unit Owner that the Association furnish a purchaser of the Unit if the proposed purchaser is not approved.

17.3.1.2 Gift, Devise or Inheritance; Other Transfers. A Unit Owner who has obtained his title by gift, devise or inheritance, or by any other manner not previously considered, shall give to the Board of Directors notice of the acquiring of his title,

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together with such information concerning the Unit Owner as the Board of Directors may reasonably require (including that set forth in Article 17.3.1.1 hereof), and a certified copy of the instrument evidencing the owner's title.

17.3.1.3 **Failure To Give Notice.** If the above required notice to the Board of Directors is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a Unit, the Board of Directors at its election and without notice may approve or disapprove the transaction or ownership. If the Board of Directors disapproves the transaction or ownership, the Board of Directors shall proceed as if it had received the required notice on the date of such disapproval.

17.3.2 Certificate of Approval.

17.3.2.1 **Sale.** If the proposed transaction is a sale, then within forty-five (45) days after receipt of such notice and all information required by the Association, including a personal interview if requested by Board of Directors, the Board of Directors must either approve or disapprove the proposed transaction.

17.3.2.2 **Gift, Devise or Inheritance; other Transfers.** If the Unit Owner giving notice has acquired his title by gift, devise or inheritance, or in any other manner, then within thirty (30) days after receipt of such notice and information the Board of Directors, including a personal interview if requested by the Board of Directors must either approve or disapprove the continuance of the Unit Owner's ownership of his Unit.

17.3.2.3 **Approval of Occupant.** If the Unit Owner or purchaser is a corporation, partnership, trust, some other entity, or more than one individual who are not husband and wife, the approval of ownership by the corporation, partnership, trust, other entity or multiple persons shall be conditioned upon approval of a Primary Occupant.

17.4 Disapproval by Board of Directors. If the Board of Directors shall disapprove a transfer of ownership of a Unit, the matter shall be disposed of in the following manner:

17.4.1 Sale. If the proposed transaction is a sale and if the notice of sale given by the Unit Owner shall so demand, then within forty-five (45) days after receipt of such notice and information the Association shall deliver or mail by certified mail to the Unit Owner an agreement to purchase the Unit concerned by a purchaser approved by the Board of Directors (including the Association itself) who will purchase and to whom the Unit Owner must sell the Unit upon the following terms:

17.4.1.1 At the option of the Association to be stated in the agreement, the price to be paid shall be that stated in the disapproved contract to sell or shall be the fair market value determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers, one of whom shall be appointed by the Unit Owner and the other of whom shall be appointed by the Association, who

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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 shared by the parties.

17.4.1.2 The purchase price shall be paid in cash. The sale shall be closed within forty-five (45) days after the delivery or mailing of the agreement to purchase, or within ten (10) days after the determination of the sale price if such is by arbitration, whichever is the later. If the Association shall fail to provide a purchaser upon the demand of the Unit Owner in the manner provided, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval, the proposed transaction shall be deemed to have been approved and the Association shall furnish a certificate of approval.

17.4.2 Gifts, Devise or Inheritance; Other Transfers. If the Unit Owner giving notice has acquired his title by gift, devise or inheritance, or in any other manner, then within thirty (30) days after receipt from the Unit Owner of the notice and information required to be furnished, the Board of Directors shall deliver or mail by certified mail to the Unit Owner an agreement to purchase the Unit concerned by a purchaser approved by the Board of Directors (including the Association itself) who will purchase and to whom the Unit Owner must sell the Unit upon the following terms:

17.4.2.1 The sale price 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. In the absence of agreement as to price, the price shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers, one of whom shall be appointed by the Association and the other of whom shall be appointed by the Unit Owner, 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 shared by the parties.

17.4.2.2 The purchase price shall be paid in cash. The sale shall be closed within ten (10) days following the determination of the sale price. If the Board f Directors shall fail to provide a purchaser as required by this instrument, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval such ownership shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided, which shall be recorded in the public records of Collier County, Florida, at the expense of the Unit Owner.

17.4.3 Disapproval for Good Cause. Approval of the Association for title transfers shall be withheld only if a majority of the whole Board so votes. The Board shall consider the following factors and may confer freely with counsel in reaching its decision. Only the following may be deemed to constitute good cause for disapproval:

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17.4.3.1 The application for approval on its face, or subsequent investigation thereof, indicates that the person seeking approval (which shall hereinafter include all proposed occupants) intends to conduct himself in a manner inconsistent with the covenants and restrictions applicable to the condominium.

17.4.3.2 The person seeking approval has been convicted of a crime involving violence to persons, a crime demonstrating dishonesty or moral turpitude or any felony;

17.4.3.3 The person seeking approval has a record of financial irresponsibility, including without limitation prior bankruptcies, foreclosures or bad debts.

17.4.3.4 The person seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in other social organizations or associations, or by his conduct in this condominium or other residences as a tenant, or owner;

17.4.3.5 The person seeking approval failed to provide the information, fees or appearance required to process the application in a timely manner;

17.4.3.6 The Unit Owner requesting the transfer has had fines assessed against him or her which have not been paid; or

17.4.3.7 All assessments and other charges against the unit have not been paid in full.

If the Board disapproves a prospective transfer on the grounds for disapproval set forth above, the Association shall have no duty to purchase the unit or furnish an alternate purchaser, and the transaction shall not be made.

17.5 Transfer Fee. The Association may charge a processing fee for the approval of transfers of title. The fee may not exceed the maximum permitted by law per transaction.

17.6 Unauthorized Transactions. Any sale, lease, mortgage or other transfer of ownership or possession not authorized pursuant to the terms of this Declaration shall be voidable unless subsequently approved by the Association.

18. METHOD OF AMENDMENT OF DECLARATION. Except as elsewhere provided otherwise, this Declaration of Condominium may be amended in the following manner:

18.1 Proposal of Amendments. An amendment may be proposed by either a majority of the Directors or by twenty-five percent (25%) of the entire voting interests.

18.2 Proposed Amendment Format. Proposals to amend the existing Declaration of Condominium shall contain the full text of the article to be amended. New words shall be

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underlined and words to be deleted shall be ~~lined through~~ with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying, "SUBSTANTIAL REWORDING OF DECLARATION OF CONDOMINIUM. SEE ARTICLE NUMBER FOR PRESENT TEXT."

18.3 Notice. Copies 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.

18.4 Adoption of Amendments. A resolution for the adoption of a proposed amendment may be adopted by a vote of sixty-seven percent (67%) of the voting interests of the Association present (in person or by proxy) and voting at a duly noticed meeting of the Association, provided that no amendment may be considered approved unless 26 units have voted with respect to the proposed amendment, whether in favor or opposed. 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.

18.5 Effective Date. An amendment when adopted shall become effective after being recorded in the Collier County Public Records according to law.

18.6 Automatic Amendment. Whenever Chapter 718, Florida Statutes (2002) Chapter 617, Florida Statutes (2002) 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 this Declaration of Condominium, 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 this Declaration of Condominium as the Board deems necessary to comply with such operational changes as may be enacted by future amendments to Chapters 607, 617, and 718 of the Florida Statutes (2002), or such other statutes or administrative regulations as required for the operation of the Association, all as amended from time to time.

18.7 Proviso. Provided, however, that no amendment shall change the configuration of any unit or the share in the common elements appurtenant to it, or increase the owner's share of the common expenses, unless the record owner of the unit concerned and all record owners of the mortgages on such apartment shall join in the execution of the amendment, and all other unit owners approve the amendment.

18.8 Merger Amendment. In the event that this condominium should desire to merge with one or more other condominiums within Bay Colony it may do so upon the affirmative vote of 75% of the voting interests in this condominium and approval of all record owners of liens;

18.9 Mortgagee Joinder. Amendments materially affecting the rights or interests of mortgagees must have the approval of the holders of institutional first mortgages of record representing 51% of the votes of units subject to such mortgages who have requested the

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Association to notify them on any proposed action specified in this paragraph. Implied approval shall be assumed when such requesting hold fails to submit a response to any written proposal for an amendment within 30 days after it receives proper notice of the proposal provided the notice was delivered certified or registered mail, with a "Return Receipt" requested. In the event that mortgagee consent is provided other than by properly recorded joinder, such consent shall be evidenced by affidavit of the Association and recorded in the Public Records of the county where the Declaration is recorded. A change to any of the following shall be considered material:

- any change in the proportion or percentage by which the owner of the unit shares the common expenses or owns the common surplus.
- reallocation of interests in the general or limited common elements, or rights to their use;
- redefinition of any unit boundaries;
- convertibility of units into common elements or vice versa;
- expansion or contraction of the project, or the addition, annexation, or withdrawal of property to or from the project;

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19. TERMINATION. The condominium may be terminated in the following manner:

19.1 Agreement. The condominium may be terminated at any time by approval, in writing, of ninety percent (90%) of the voting interests of the Association and approval of the requesting holders of institutional first mortgages of record representing 51% of the votes of the units subject to such mortgages. Mortgagee approval shall be as set forth in Paragraph 18.9.

19.2 Very Substantial Damage. If the condominium, as a result of casualty, suffers "very substantial damage" and it is not decided as herein provided that it will be reconstructed or repaired, the condominium form of ownership will thereby terminate without agreement.

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

19.4 New Condominium. The termination of the condominium does not bar creation of another condominium affecting all or any portion of the same property.

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19.5 Partition; Sale. Following termination, the condominium and Association property may be partitioned and sold upon the application of any unit owner. Provided, however, that if the following a termination, the owners of sixty-seven percent (67%) of the voting interests of the Association determine to accept an offer for the sale of the property, all owners shall be bound to execute deeds and other documents reasonably required to effect the sale. In such event, any action for partition of the property shall be held in abeyance pending the sale, and upon the consummation of the sale shall be discontinued by all parties thereto.

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

19.7 Provisions Survive Termination. The provision of this Paragraph 19 are covenants running with the land and shall survive the termination of the condominium until all matters covered by this paragraph have been completed.

20. CONDEMNATION.

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

20.2 Determination Whether to Continue Condominium. Whether the condominium will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after a casualty.

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

20.4 Association as Agent. The Association is hereby irrevocably appointed as each unit owner's attorney-in-fact for purposes of negotiating or litigating with the condemning authority for the purpose of realizing just compensation for the taking.

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20.5 Units Reduced but Tenantable. If the taking reduced the size of a unit and the remaining portions of the unit can be made tenantable, the awards for the taking of a portion of that unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the condominium:

20.5.1 Restoration of Unit. The unit shall be made tenantable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be paid by the owner of the unit.

20.5.2 Distribution of Surplus. The balance of the award, if any, shall be distributed to the owner of the unit and to each mortgagee of the unit, the remittance being made payable jointly to the owner and mortgagees.

20.6 Unit Made Untenantable. If the taking is of any entire unit or so reduces the size of a unit that it cannot be made tenantable, the award for the taking of the unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the condominium:

20.6.1 Payment of Award. The fair market value of the unit immediately prior to the taking, as determined by agreement between the unit owner and the Association or by arbitration in accordance with Section 20.6.4 following, shall be paid to the owner of the unit and to each mortgagee of the unit, the remittance being made payable jointly to the owner and the mortgagee(s):

20.6.2 Addition to Common Elements. If possible and practical, the remaining portion of the unit shall become a part of the common elements and shall be placed in condition for use by al unit owners in the manner approved by the Board of Directors.

20.6.3 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 to distribute the ownership of the common elements among the reduced number of unit owners. This shall be done by restating the shares of the continuing unit owners in the common elements as percentages of the total remaining square footage of units.

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

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20.7 Taking of Common Elements. Awards for the taking of common elements shall be used to make the remaining portions of the common elements usable in the manner approved by the Board of Directors. The balance of such awards, if any, shall be distributed to the unit owners in the shares in which they own the common elements after adjustment of these shares on account of the condemnation. If a unit is mortgaged, the remittance shall be paid jointly to the owner and mortgagee(s) of the unit.

20.8 Amendment of Declaration. The changes in units, in the common elements and in the ownership on the common elements that are necessitated by condemnation, shall be evidenced by an amendment of the Declaration of Condominium that need be approved only by a majority of unit owners (voting interests) of this Condominium, without the consent of any mortgagee being required for any such amendment.

21. COMPLIANCE AND DEFAULT.

21.1 Duty to Comply; Right to Sue. Each unit owner, his tenants and guests, and the Association shall be governed by and shall comply with the provisions of the Condominium Act, this Declaration, the documents creating the Association, the By-Laws and the Rules and Regulations. Action for damages or for injunctive relief, or both, for failure to comply may be brought by the Association or by a unit owner against:

21.1.1 The Association;

21.1.2 A unit owner; or

21.1.3 Anyone who occupies a unit as a tenant or is a guest in a unit.

21.2 Waiver of Rights. The failure of the Association to enforce any right, provision, covenant or condition which may be granted by the condominium documents shall not constitute a waiver of the right of the Association to enforce such right, provision, covenant or condition in the future. A provision of the Condominium Act may not be waived if the waiver would adversely affect the rights of the owner or defeat the purpose of the provision, except that unit owners or Directors may waive notice of specific meetings as provided in the By-Laws.

21.3 Attorney's Fees. In any legal proceeding arising out of an alleged failure of a unit owner, tenant, guest, or invitee or the Association to comply with the requirements of the Condominium Act or the Condominium Documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs and expenses of the proceeding and a reasonable attorney's fee before trial, at trial and on appeal. The Association may also recover attorney's fees it incurs because of noncompliance with the condominium documents in cases where no court action is filed including, but not limited to, arbitration and pre-litigation fees incurred in the collection of delinquent assessments, and fees reasonably incurred by the Association in obtaining compliance with the Condominium Documents. Said costs and fees shall be secured by a lien for charges, as provided in Article 10.8 hereof..

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21.4 No Election of Remedies. All rights, remedies and privileges granted to the Association or unit owners under any terms, provisions, covenants, or conditions 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 from exercising such other additional rights, remedies, or privileges as may be granted by the condominium documents, or at law or in equity.

21.5 Notice of Lien or Suit.

21.5.1 Notice of Lien. A unit owner shall give to the Association written notice of every lien upon his unit other than for permitted first mortgages, taxes and special assessments, within five (5) days after the unit owner receives actual notice of the attachment thereof.

21.5.2 Notice of Suit. A unit owner shall give notice, in writing, to the Association of every suit or other proceeding which may affect the title to his unit, such notice to be given five (5) days after the unit owner receives actual knowledge thereof.

21.5.3 Failure to Comply. Failure of an owner to comply with this Section 21.5 will not affect the validity of any judicial suit; however, the failure may render the owner liable to any party injured by such failure.

22. MEMBERSHIP IN PELICAN BAY OF NAPLES FOUNDATION, INC.; BAY COLONY COMMUNITY ASSOCIATION, INC.

22.1 The Foundation. Each Unit Owner is required to be a member of the Pelican Bay of Naples Foundation, Inc. ("Foundation") which provides certain common facilities and services to all Pelican Bay residents. Assessments are levied annually by the Foundation, but are to be made payable to the Condominium Association for remittance to the Foundation. Each unit is entitled to one vote in Foundation matters, as provided in the Foundation Governing Documents, as amended from time to time. Foundation assessments are payable on an equal basis (i.e. not weighted as are common expenses of this Condominium). Foundation assessments also include bulk cable television, which is obtained through the Foundation. The Foundation also has certain architectural approval rights regarding modifications to the Condominium Property.

22.2 BCCA. Membership is also mandatory in Bay Colony Community Association, Inc. ("BCCA"). BCCA provides certain common facilities and security services to residents of the Bay Colony section of Pelican Bay. BCCA also has certain architectural approval rights regarding modifications to the Condominium Property. Voting rights are as set forth in the BCCA Governing Documents. Assessments levied by BCCA are collected by the Condominium Association.

22.3 Incorporation of Foundation and BCCA Governing Documents. Unit Owners in the Marquesa at Bay Colony, as members of the Foundation and BCCA are expected

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to retain a current set of Governing Documents for both organizations. The Governing Documents for these organizations specify rights and responsibilities affiliated with membership in those Association. Further, these Governing Documents may impose additional restrictive covenants, additional to those set forth in these Condominium Documents, which may govern use of the Condominium Property.

22.4 Cross Use Easements - Adjacent Property. The Developer reserves the right to construct condominiums and non-condominium villas on property adjacent to The Marquesa. The projects may make joint use with The Marquesa of portions of a common entrance, parking garage exterior wall, driveway, parking and landscaped grounds which are condominium property and/or Bay Colony or Bend Neighborhood common areas. Developer reserves the right to grand non-exclusive cross use easements to those projects, their owners, tenants, guests and invitees for use of these areas provided that each Association shall pay a pro-rata share of the expenses association with these areas based upon the number of units in each development.

22.5 The Bay Colony Beach Club. The Bay Colony Beach Club includes a pool, dining, tennis and other facilities in which membership is mandatory for Bay Colony residents located upon Bay Colony Community Association Common Areas and which is to be owned and administered by that Association. The Marquesa owners shall be members and must pay membership fees and assessments, including user fees. Beach Club expenses will be included in Bay Colony assessments.

22.6 Bend Neighborhood. If, pursuant to the Amended and Restated Declaration and General Protective Covenants for Bay Colony, Bay Colony Community Association, Inc. creates the Bend Neighborhood including assessments specific to that area, The Marquesa owners will be subject to such covenants and obligated to pay such assessments.

23. MISCELLANEOUS PROVISIONS.

23.1 The covenants and restrictions as herein contained, or forming a part of the Condominium Documents, shall be deemed to run with the land.

23.2 If any provision of the Condominium Documents hereto, as the same now exist or as may be later amended or any portion thereof, shall be held invalid by any Court, the validity of the remainder of said condominium documents shall remain in full force and effect.

23.3 These Condominium Documents shall be binding upon the heirs, nominees, successors, administrators, executors and assigns of all unit owners.

23.4 All notices shall be given as provided in the By-Laws.

23.5 There shall be no limitation upon sale, lease or occupancy of any unit based upon race, creed, color, sex, religion, national origin, handicap or familial status. The Association may make reasonable accommodations, including reasonable waiver of the

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covenants and restrictions of the Condominium Documents, when necessary to afford handicapped individuals the opportunity to enjoy the condominium premises.

23.6 The Developer granted to each unit owner a non-exclusive easement for streets, walks and other rights of way serving the unit as a part of the common elements. All liens and leaseholds shall be subordinate and subsequent to the rights of easement herein granted to each unit owner.

23.7 All persons joining this Declaration subjects his interest to the provisions of this Declaration and the provisions of Chapter 718, Florida Statutes, as now or hereafter amended.

23.8 In the event of a conflict between any provision of this Declaration and the Condominium Act, the Condominium Act, Section 718, Florida Statutes, shall control. In the event of a conflict between this Declaration and the other Condominium Documents, same shall be governed as provided in the By-Laws.

23.9 The Board of Directors of the Association shall be responsible for interpreting the provisions of this Declaration and of any exhibits attached hereto.

23.10 The headings and captions used in the Condominium Documents are solely for convenience sake and shall not be considered a limitation of any nature, in interpreting the Condominium Documents.

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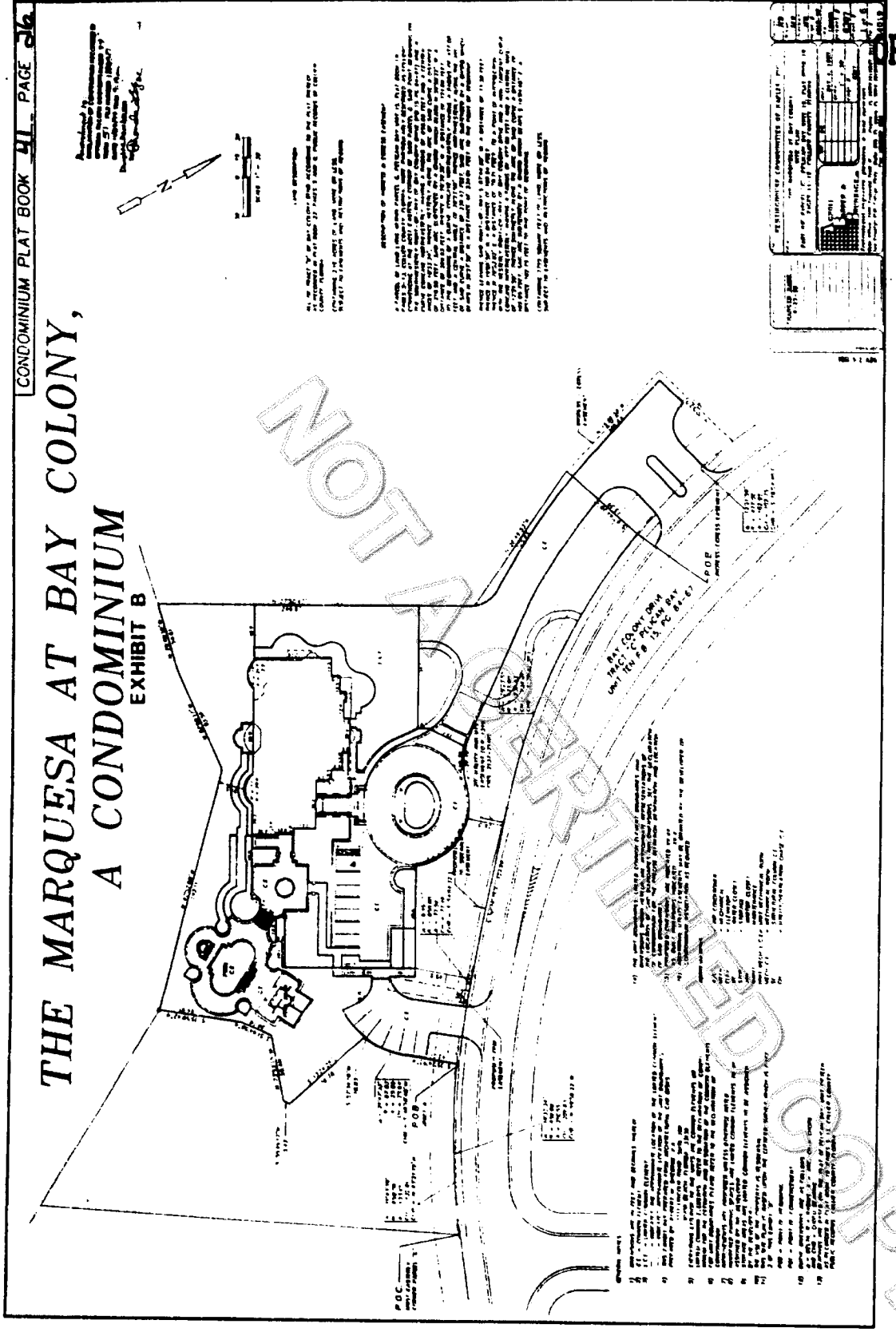
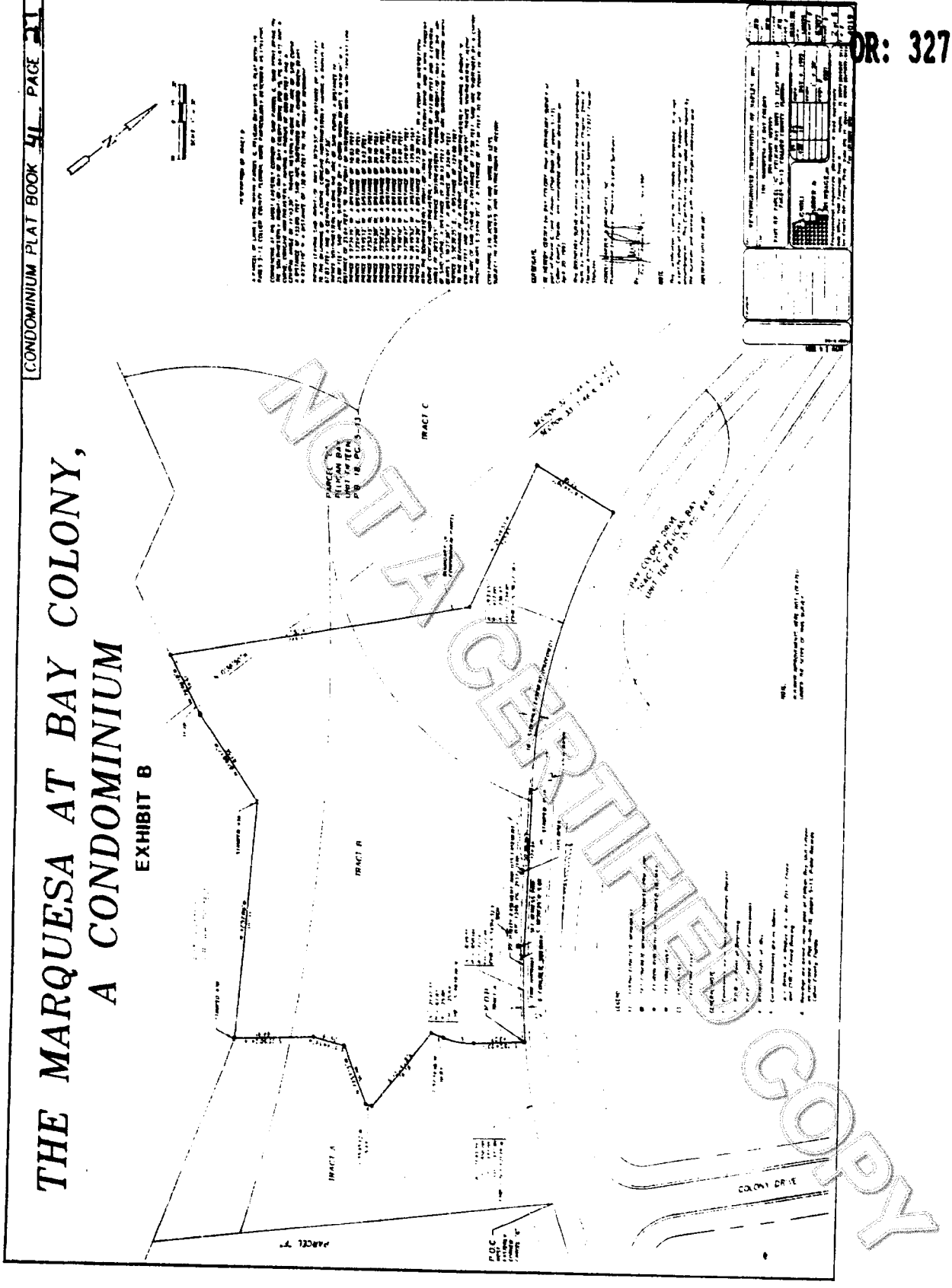


Exhibit "A" to the Amended and Restated
Declaration of Condominium
Page 1 of 8

CONDOMINIUM PLAT BOOK 41 PAGE 21

THE MARQUESA AT BAY COLONY, A CONDOMINIUM

EXHIBIT B



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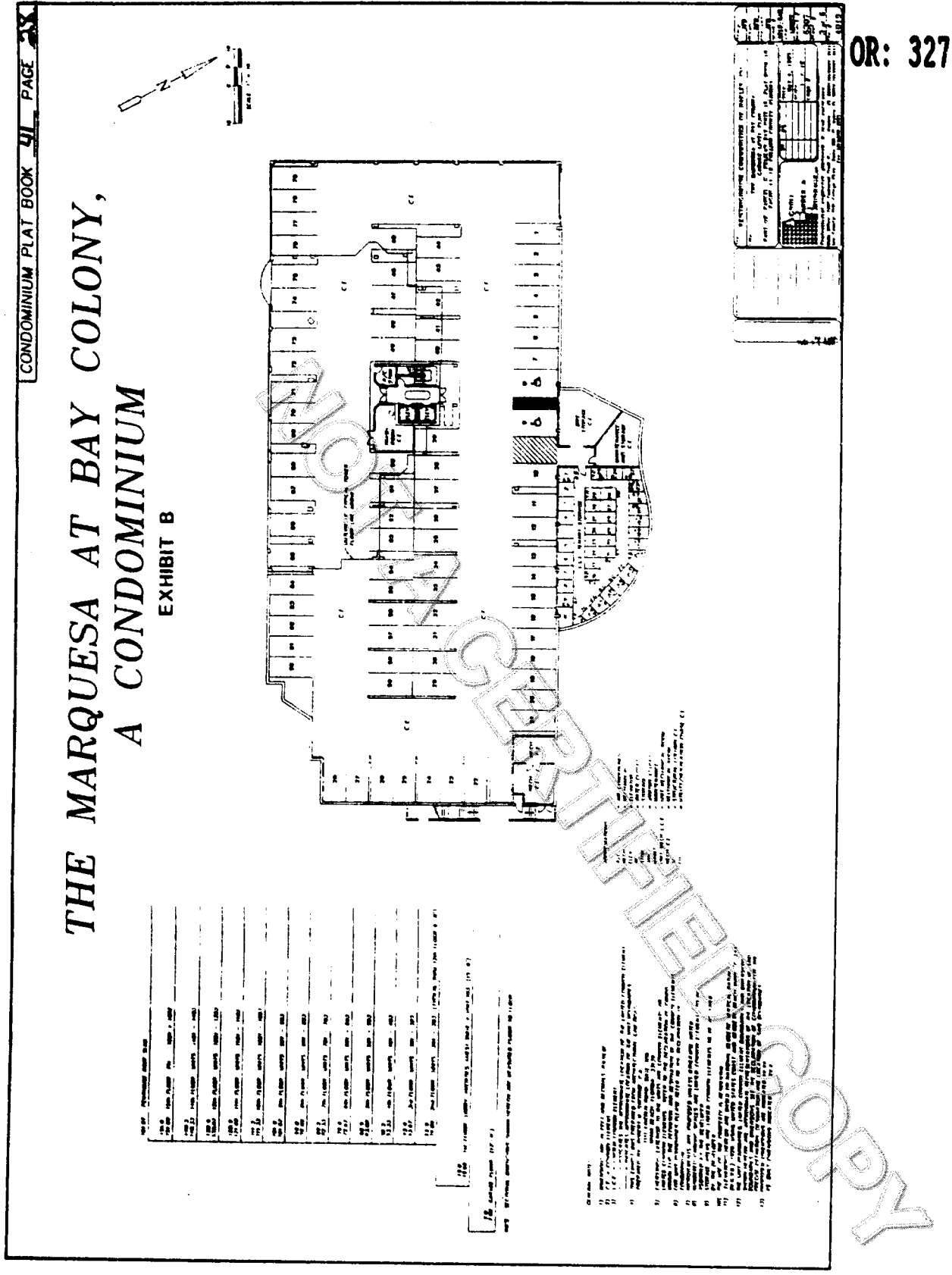
CONDOMINIUM PLAT BOOK 41 PAGE 28

THE MARQUESA AT BAY COLONY, A CONDOMINIUM

EXHIBIT B



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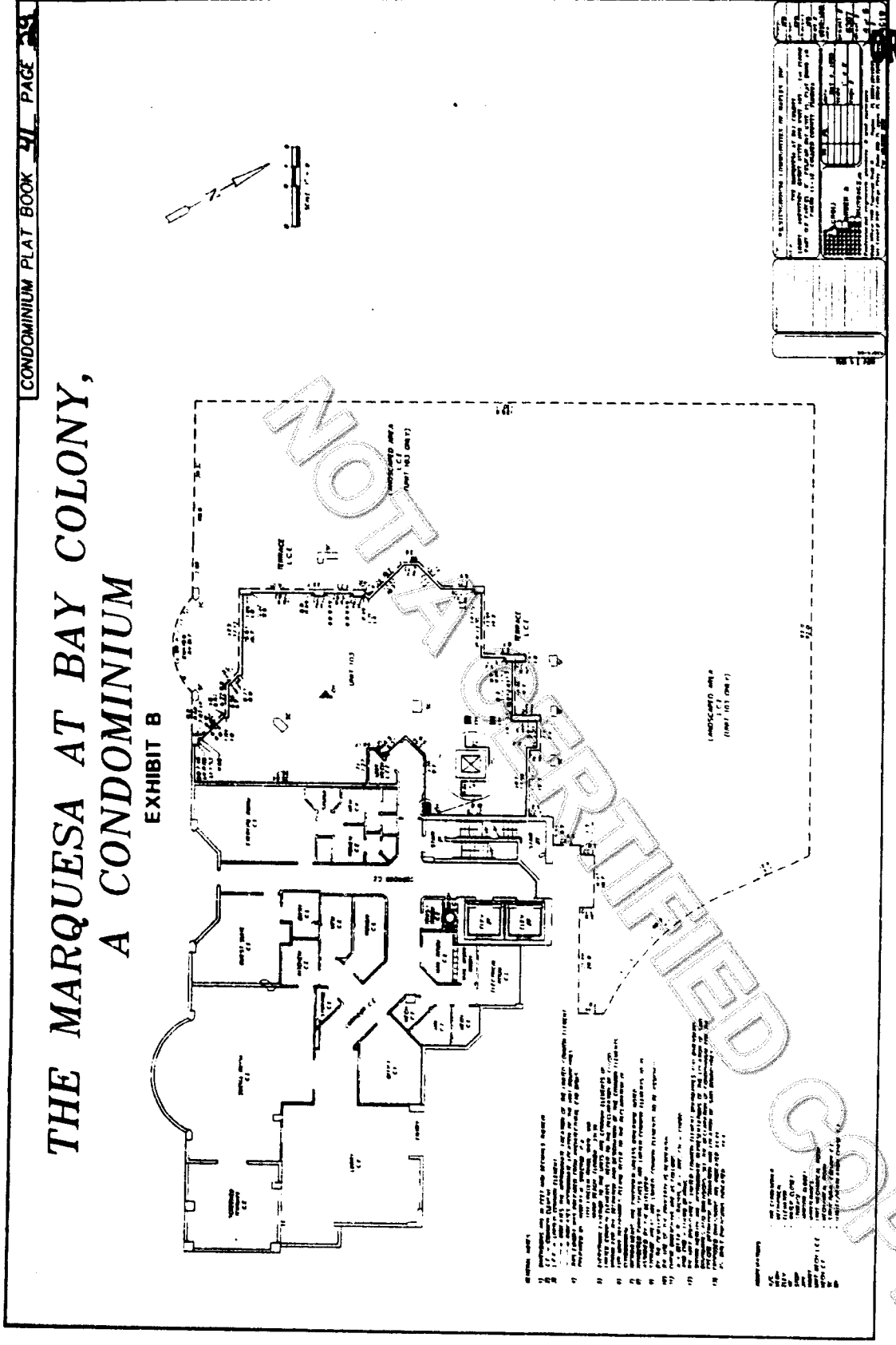
CONDOMINIUM PLAT BOOK 21 PAGE 29

THE MARQUESA AT BAY COLONY, A CONDOMINIUM

EXHIBIT B



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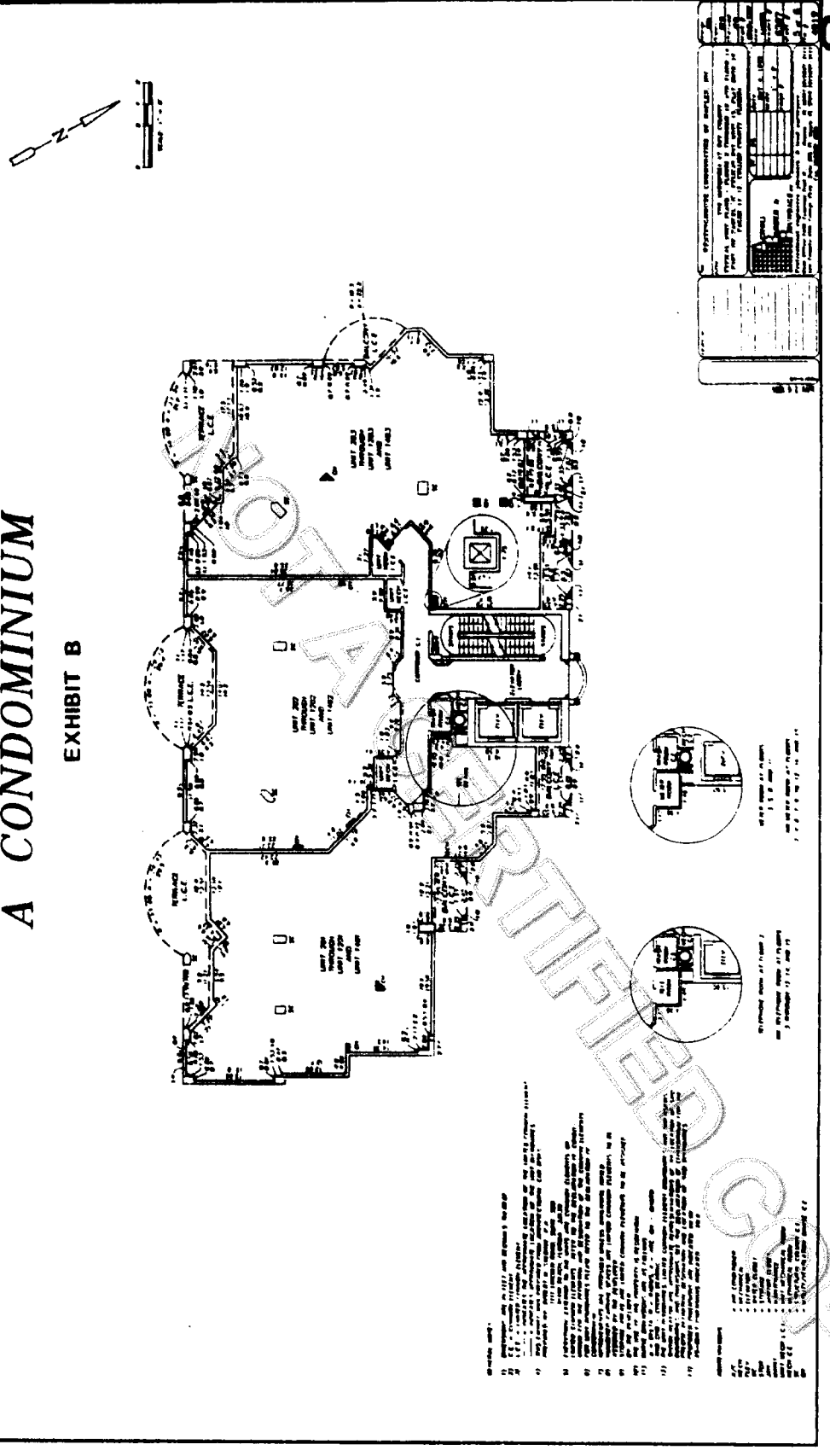
CONDOMINIUM PLAT BOOK 41 PAGE 30

THE MARQUESA AT BAY COLONY, A CONDOMINIUM

EXHIBIT B



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CONDOMINIUM PLAT BOOK 41 PAGE 31

THE MARQUESA AT BAY COLONY, A CONDOMINIUM

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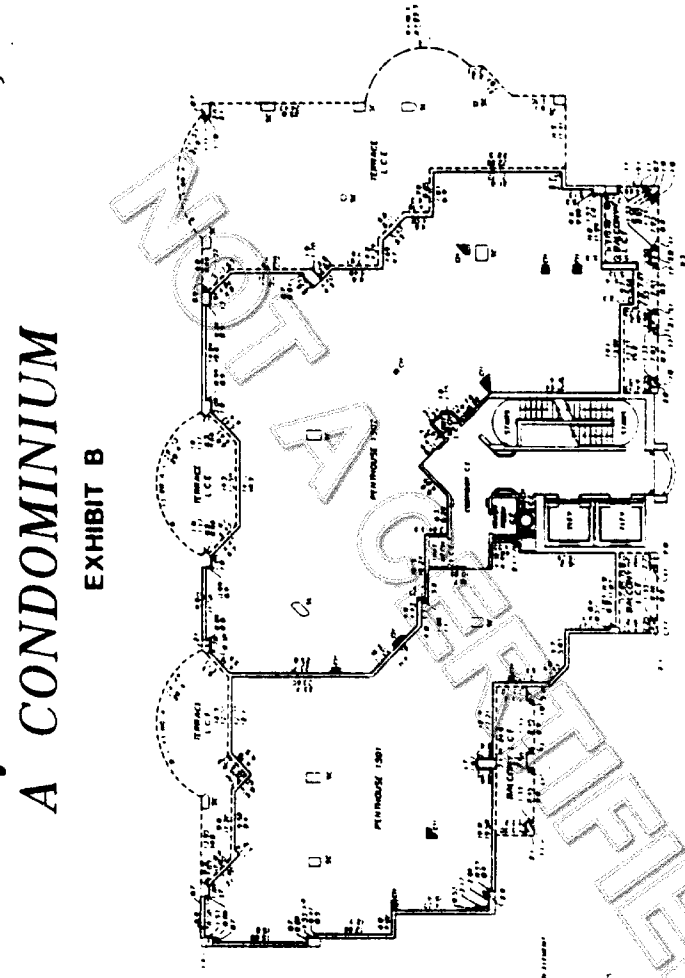

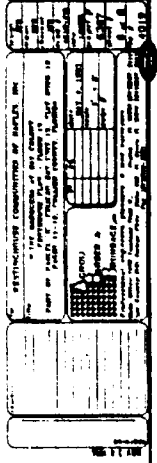

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DESCRIPTION OF INGRESS & EGRESS EASEMENT

A PARCEL OF LAND LYING WITHIN PARCEL G, PELICAN BAY UNIT 15, PLAT BOOK 18, PAGES 5-13, COLLIER COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE MOST EASTERLY CORNER OF SAID PARCEL G; SAID POINT BEGINNING ON THE SOUTHWESTERLY RIGHT-OF-WAY OF BAY COLONY DRIVE (PB 15 PG 64-67) AND A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 650.00 FEET AND A CENTRAL ANGLE OF 18°33'34", THENCE WESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 210.55 FEET, SAID ARC SUBTENDED BY A CHORD WHICH BEARS N 59°56'22" W, A DISTANCE OF 209.63 FEET; THENCE N 50°39'35" W, A DISTANCE OF 124.66 FEET; TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 477.00 FEET AND A CENTRAL ANGLE OF 28°23'55", THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 236.43 FEET, SAID ARC SUBTENDED BY A CHORD WHICH BEARS N 36°27'38" W, A DISTANCE OF 234.01 FEET TO THE POINT OF BEGINNING;

THENCE LEAVING SAID RIGHT-OF-WAY S 67°44'20" W, A DISTANCE OF 73.38 FEET;
THENCE N 19°06'58" W, A DISTANCE OF 106.64 FEET;
THENCE N 70°53'02" E, A DISTANCE OF 78.71 FEET; TO A POINT OF INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY OF BAY COLONY DRIVE AND A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 477.00 FEET AND A CENTRAL ANGLE OF 12°21'59", THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 102.95 FEET, SAID ARC SUBTENDED BY A CHORD WHICH BEARS S 16°04'40" E, A DISTANCE 102.75 FEET TO THE POINT OF BEGINNING;

CONTAINING 7755 SQUARE FEET OF LAND, MORE OR LESS;
SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

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DESCRIPTION OF TRACT B

A PARCEL OF LAND LYING WITHIN PARCEL G, PELICAN BAY UNIT 15, PLAT BOOK 18, PAGES 5-13, COLLIER COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST EASTERLY CORNER OF SAID PARCEL G; SAID POINT BEING ON THE SOUTHWESTERLY RIGHT-OF-WAY OF BAY COLONY DRIVE (PB 15, PG 64-67) AND A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 650.00 FEET AND A CENTRAL ANGLE OF 11°43'39", THENCE WESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 133.05 FEET, SAID ARC SUBTENDED BY A CHORD WHICH BEARS N 63°21'19" W, A DISTANCE OF 132.81 FEET TO THE POINT OF BEGINNING;

THENCE LEAVING SAID RIGHT-OF-WAY S 35°24'53" W, A DISTANCE OF 43.07 FEET; TO THE BEGINNING OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 67.83 FEET AND A CENTRAL ANGLE OF 21°47'33",
THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 25.80 FEET, SAID ARC SUBTENDED BY A CHORD WHICH BEARS S 46°18'40" W, A DISTANCE OF 25.64 FEET TO THE POINT OF INTERSECTION WITH A NON-TANGENT LINE;
THENCE S 57°34'16" W, A DISTANCE OF 10.83 FEET;
THENCE S 13°24'28" E, A DISTANCE OF 76.78 FEET;
THENCE S 55°45'12" W, A DISTANCE OF 5.43 FEET;
THENCE N 73°53'15" W, A DISTANCE OF 50.48 FEET;
THENCE S 51°44'58" W, A DISTANCE OF 26.18 FEET;
THENCE S 35°50'24" W, A DISTANCE OF 64.81 FEET;
THENCE N 47°57'00" W, A DISTANCE OF 192.11 FEET;
THENCE N 57°00'17" W, A DISTANCE OF 83.56 FEET;
THENCE N 79°40'18" W, A DISTANCE OF 54.61 FEET;
THENCE N 27°50'47" E, A DISTANCE OF 249.97 FEET;
THENCE N 26°49'53" W, A DISTANCE OF 125.65 FEET;
THENCE N 67°44'20" E, A DISTANCE OF 73.38 FEET; TO A POINT OF INTERSECTION WITH THE SOUTHWESTERLY RIGHT-OF-WAY OF BAY COLONY DRIVE AND A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 477.00 FEET AND A CENTRAL ANGLE OF 28°23'55", THENCE SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY AND THE ARC OF SAID CURVE, A DISTANCE OF 236.43 FEET, SAID ARC SUBTENDED BY A CHORD WHICH BEARS S 36°27'38" E, A DISTANCE OF 234.01 FEET;
THENCE S 50°39'35" E, A DISTANCE OF 124.66 FEET;
TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 650.00 FEET AND A CENTRAL ANGLE OF 06°49'55", THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 77.50 FEET, SAID ARC SUBTENDED BY A CHORD WHICH BEARS S 54°04'32" E, A DISTANCE OF 77.46 FEET TO THE POINT OF BEGINNING;

CONTAINING 2.16 ACRES OF LAND, MORE OR LESS;.
SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

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AMENDED AND RESTATED ARTICLES OF INCORPORATION

OF THE MARQUESA AT BAY COLONY CONDOMINIUM ASSOCIATION, INC.

SUBSTANTIAL REWORDING OF ARTICLES OF INCORPORATION – SEE CURRENT ARTICLES OF INCORPORATION FOR CURRENT TEXT

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These are the Amended and Restated Articles of Incorporation for The Marquesa at Bay Colony Condominium Association, Inc. originally filed with the Florida Department of State the 17th day of March, 1993, under Charter Number N93000001168. Matters of only historical interest have been omitted. Amendments included have been added pursuant to Chapter 617, Florida Statutes (2002).

1. **NAME.** The name of the corporation shall be THE MARQUESA AT BAY COLONY CONDOMINIUM ASSOCIATION, INC. For convenience, the corporation shall be referred to in this instrument as the "Association", the Declaration of Condominium as "Declaration", these Articles of Incorporation as the "Articles", and the Bylaws of the Association as the "Bylaws".

2. **PURPOSE.** The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act (the "Act") for the operation of that certain condominium located in Collier County, Florida, and known as The Marquesa at Bay Colony, A Condominium (the "Condominium").

3. **DEFINITIONS.** The terms used in these Articles shall have the same definitions and meaning as those set forth in the Declaration of the Condominium recorded in the Public Records of Collier County, Florida, unless herein provided to the contrary, or unless the context otherwise requires.

4. **POWERS.** The powers of the Association shall include and be governed by the following:

4.1 General. The Association shall have all of the common- law and statutory powers of a corporation not for profit under the Laws of Florida that are not in conflict with the provisions of these Articles or of the Act.

4.2 Enumeration. The Association shall have all the powers and duties set forth in the Act and as it may be amended from time to time, except as limited by these Articles and as they may be amended from time to time, the Bylaws and as they may be amended from time to time, and all of the powers and duties reasonably necessary to operate the Condominium

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pursuant to the Declaration and as it may be amended from time to time including but not limited to the following:

4.2.1 To make and collect assessments and other charges against members as Unit Owners, and to use the proceeds thereof in the exercise of its powers and duties.

4.2.2 To buy, own, operate, lease, sell and trade both real and personal property as may be necessary or convenient in the administration of the Condominium.

4.2.3 To maintain, repair, replace, reconstruct, add to, and operate the Condominium property and other property acquired or leased by the Association for use by Unit Owners.

4.2.4 To purchase insurance upon the Condominium property and insurance for the protection of the Association, its officers, Directors, and members as Unit Owners.

4.2.5 To make and amend reasonable rules and regulations for the maintenance, conservation and use of the Condominium property and for the health, comfort, safety and welfare of the Unit Owners.

4.2.6 To approve or disapprove the leasing, transfer, mortgaging, ownership and possession of units as may be provided by the Declaration.

4.2.7 To enforce by legal means the provisions of the Act, the Declaration, these Articles, the Bylaws, and the Rules and Regulations for the use of the Condominium property.

4.2.8 To contract for the management of the Condominium and any facilities used by the Unit Owners, and to delegate to the party with whom such contract has been entered into all of the powers and duties of the Association except those which require specific approval of the Board of Directors or the membership of the Association.

4.2.9 To employ personnel to perform the services required for proper operation of the Condominium.

4.3 Condominium property. All funds and the titles of all properties acquired by the Association and their proceeds shall be held for the benefit and use of the members in accordance with the provisions of the Declaration, these Articles and the Bylaws.

4.4 Distribution of income. The Association shall make no distribution of income to its members, Directors or officers.

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4.5 Limitation. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration and the Bylaws.

5. MEMBERS. The members of the Association shall consist of all of the record owners of units in the Condominium, and after termination of the Condominium shall consist of those who were members at the time of the termination and their successors and assigns.

5.1 Assignment. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit for which that share is held.

5.2 Voting. On all matters upon which the membership shall be entitled to vote, there shall be only one vote for each Unit, which vote shall be exercised or cast in the manner provided by the Declaration and Bylaws. Any person or entity owning more than one unit shall be entitled to one vote for each Unit owned.

5.3 Meetings. The Bylaws shall provide for an annual meeting of members, and may make provision for regular and special meetings of members other than the annual meeting.

6. TERM OF EXISTENCE. The Association shall have perpetual existence.

7. OFFICERS. The affairs of the Association shall be administered by the officers designated in the Bylaws. The officers shall be elected by the Board of Directors of the Association at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board of Directors. The Bylaws may provide for the removal from office of officers, for filling vacancies, and for the duties of the officers.

8. DIRECTORS.

8.1 Number and Qualification. The property, business and affairs of the Association shall be managed by a board consisting of the number of Directors determined by the Bylaws, but which shall consist of not less than three (3) Directors. Directors must be members or the spouse of a member of the Association.

8.2 Duties and powers. All of the duties and powers of the Association existing under the Act, the Declaration, these Articles and the Bylaws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by Unit Owners when such approval is specifically required.

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8.3 Election; removal. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

9. BYLAWS. The Bylaws of this Corporation may be altered, amended or repealed in the manner provided in the Bylaws.

10. AMENDMENTS. These Articles may be amended in the following manner:

10.1 Proposal of Amendments. An amendment may be proposed by either 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 Articles of Incorporation 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 saying, "SUBSTANTIAL REWORDING OF ARTICLE. SEE ARTICLE NUMBER FOR PRESENT TEXT."

10.3. Notice. Copies 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 a vote of sixty-seven percent (67%) of the voting interests of the Association present (in person or by proxy) and voting at a duly noticed meeting of the Association, provided that no amendment may be considered approved unless 26 units have voted with respect to the proposed amendments, whether in favor or opposed. 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 Collier County Public Records according to law and filed with the Secretary of State according to law.

10.6 Automatic Amendment. These Articles shall be deemed amended, if necessary, so as to make the same consistent with the provisions of the Declaration of Condominium. Whenever Chapter 718, Florida Statutes (2002) Chapter 617, Florida Statutes (2002) 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 Articles, the Board may operate the Association pursuant to the less stringent requirements. The Board of Directors, without a vote of

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the owners, may adopt by majority vote, amendments to these Articles as the Board deems necessary to comply with such operational changes as may be enacted by future amendments to Chapters 607, 617, and 718 of the Florida Statutes (2002), 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 unit or the share in the common elements appurtenant to it, or increase the owner's share of the common expenses, unless the record owner of the unit concerned and all record owners of the mortgages on such apartment shall join in the execution of the amendment, and all other unit owners approve the amendment.

11. REGISTERED OFFICE ADDRESS AND NAME OF REGISTERED AGENT. The registered office address and the name of the registered agent of the corporation shall be as determined by the Board of Directors from time to time.

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AMENDED AND RESTATED BY-LAWS

OF

THE MARQUESA AT BAY COLONY CONDOMINIUM ASSOCIATION, INC.

SUBSTANTIAL REWORDING OF BY-LAWS - SEE CURRENT BY-LAWS FOR CURRENT TEXT

NOT OFFICIAL RECORD

1. IDENTITY. These are the Amended and Restated By-Laws (hereinafter "By-Laws") of The Marquesa at Bay Colony Condominium Association, Inc., a Florida not-for-profit Corporation formed for the purpose of administering The Marquesa at Bay Colony, A Condominium (hereinafter "the Condominium") which is located at 8990 Bay Colony Drive, Naples, Florida 34108 in Collier 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 8990 Bay Colony Drive, Naples, Florida, or such other location within Collier 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 By-Laws shall have the same meaning, to the extent applicable, as set forth in the Articles of Incorporation for the Association, the Declaration of Condominium for the Condominium and the Florida Condominium Act (Chapter 718, Florida Statutes, 2002), all as amended from time to time.

2. MEMBERS' MEETINGS.

2.1 Annual Meetings. Annual members' meetings shall be held at such convenient location in Collier County as may be determined by the Board of Directors. The annual meeting shall be held on the date and time determined by the Board for the purpose of transacting any business authorized to be transacted by the members.

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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 25% of the voting interests of the Association. Members' meetings to recall a member or members of the Board of 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)(k), Florida Statutes (2002), as amended from time to time.

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 unit owner by United States regular mail, unless waived in writing, at least 14 days prior to the meeting as to annual meetings and 10 days as to special meetings. Hand delivery 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 Section 2.4 next following. An officer of the Association or other person providing notice shall execute an affidavit of mailing per Section 718.112(2)(d)(2), Florida Statutes (2002), as amended from time to time, 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.

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 60 days before a scheduled election, the Association shall mail or deliver, whether by separate Association mailing or included in another Association mailing or delivery including regularly published newsletters, to each unit owner entitled to vote, a first notice of the date of the election. Any person desiring to be a candidate for the Board of Directors shall give written notice to the Association not less than 40 days before scheduled election. Not less than 14 days before the election, the Association shall mail or deliver a second notice of the election to all unit owners entitled to vote therein, together with a written ballot 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.

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2.4.2 There is no quorum requirement necessary for an election. However, at least twenty percent (20%) of the units must cast a ballot 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 annual meeting.

2.4.4 It is the intention of this Article 2.4 to "opt out" of the statutory election procedures found at Section 718.112(2)(d), Florida Statutes (2002). To this end, the Board may establish additional election rules as it deems appropriate to ensure a fair election process. Substantial compliance with these By-Laws 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. Decisions made by a majority of the voting interests present and voting, in person or by proxy, at a meeting at which a quorum is present shall be binding and sufficient for all purposes except such decisions as may by Chapter 718, Florida Statutes (2002) or the Condominium Documents require a larger percentage in which case the percentage required in Chapter 718, Florida Statutes (2002), or the Condominium Documents shall govern. To the extent lawful, unit owners 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 unit owner duly approved the action of the meeting in question.

2.6 Indivisible Vote. Each unit shall have one indivisible vote. If a unit is owned by a corporation, trust or other entity, the Primary Occupant shall be entitled to vote. Voting certificates are not necessary.

2.7 Proxies. Votes may be cast in person or by proxy. Only unit owners or the spouse of a unit owner may be delegated to hold proxies, provided that the Board may designate agents of the Association (including but not limited to association legal counsel or the association's manager) as an eligible proxy holder. Proxies shall be in writing, signed and dated, and shall be valid only for the particular meeting designated therein or an adjournment thereof, but in no event for more than 90 days, 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, unit owners may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the Division of Florida Land Sales, Condominiums and Mobile Homes. 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 By-Laws; and for any other matter which Chapter 718,

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Florida Statutes (2002) requires or permits a vote of the unit owners. Provided, however, that it is the intention of this provision to "opt-out" of the requirements of the Statute to the extent that unit owners who are given the opportunity to vote by limited proxy, but declined to do so, may grant general powers (including the right to vote with respect to designated agenda items) to the holder of their proxy. 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. An executed telegram or cablegram appearing to have been transmitted by the proxy giver, or a photographic, photostatic, facsimile, electronic or equivalent reproduction of a proxy is a sufficient proxy. Owners may retroactively cure any alleged defect in a proxy by signing a statement ratifying the owner's intent to cast a proxy vote. The use of proxies is to be liberally construed.

2.8 No Quorum. 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, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

2.9 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;

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;

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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. Members may also consent in writing to action taken at a meeting, before or after the meeting, by providing a written statement to that effect and their vote shall be fully counted as though they had attended the meeting.

3. BOARD OF DIRECTORS.

3.1 Number, Term, and Qualifications. The affairs of the Association shall be governed by a Board composed of five (5) Directors. All Directors shall be unit owners or the spouse of a unit owner. When a unit is owned by a corporation, a partnership, or similar entity, the primary occupant, as designated pursuant to the Declaration of Condominium, and the spouse of the primary occupant shall be eligible for Board membership. A grantor of a trust described in Section 733.707(3), Florida Statutes (2002), or a beneficiary as defined in Section 737.303(4)(b), Florida Statutes (2002), and the spouses of such persons, shall be considered eligible for Board membership. No more than one (1) natural person from each unit shall be eligible to stand for election for Board membership, or serve on the Board. Persons who are convicted felons, who have not had their civil rights restored, are not eligible to serve on the Board. All Directors will be elected for a two (2) year term. It is the intention of these By-Laws that a staggered Directorate be maintained. To implement and maintain a staggered Directorate, the Board may hold seats in future elections open for one or two year terms, when necessary or appropriate. In such cases, those receiving the higher number of votes shall be elected to the longer terms and when no election is held, the decision shall be made by agreement of the affected parties, or by lot. The term of each Director's service shall extend until their elected term is completed and thereafter until their successor is duly elected and qualified or until the Director is recalled in the manner provided in the Condominium Act, or resigns. 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

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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 noticed, 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, telephone, or facsimile at least two days prior to the day named for such meeting.

3.5 Special Meetings. Special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of any two (2) Directors. Not less than two days' notice of the meeting (except in an emergency) shall be given to each Director personally or by mail, electronic mail, telephone, or facsimile, which notice shall state the time, place, and purpose of the meeting.

3.6 Waiver of Notice. Any Director may waive notice of a meeting before, at, or after the meeting and such waiver shall be deemed equivalent to the giving of 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 Section 2.3 of these By-Laws at least 48 continuous hours in advance of the meeting for the attention of unit owners, except in an emergency. Meetings at which a regular monthly or quarterly assessment is to be considered shall contain a statement that assessments will be considered and the nature of such assessments. However, written notice of any meeting at which non-emergency special assessments, or at which amendment to rules regarding unit use will be considered, shall be mailed or delivered to the unit owners and posted conspicuously as provided in Section 2.3 of these By-Laws not less than 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 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 members of the Board are present, shall be open to all unit owners. Unit owners may not designate third persons, through power of attorney or otherwise, to attend Board meetings, unless agreed to otherwise by the Board. The right to attend such 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 unit owner statements. Unless otherwise provided by the Board, each unit owner is entitled to speak for three minutes with reference to designated agenda items. Board meetings subject to the attorney-client privilege shall not be subject to unit owner observation.

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. A quorum at Directors' Meetings shall consist of a majority of the Directors. The acts approved by a majority of the entire Board of Directors present at a meeting shall constitute the acts of the Board. Directors may not vote by proxy or by secret ballot at Board meetings (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 minutes. Directors may not abstain from voting except in the case of an asserted conflict of interest. If at any meeting of the Board there be less than a quorum present, the Director(s) present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted. Absent Directors may later sign written joinders in Board actions, but such joinders may not be used for purposes of creating a quorum or counted as official vote for the Board's meeting. 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, subject only to the approval by unit owners when such is specifically required. Such powers and duties of the Directors shall include, but shall not be limited to, the following:

4.1 To Assess. The Directors shall adopt budgets and make and collect special and periodic assessments against owners to defray the costs of the Association.

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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.

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 Units, 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 Units, Common Elements, Limited Common Elements, and Association Property improvements after casualty and to further improve the property, as specified in the Declaration of Condominium.

4.6 To Approve Transfers. The Directors may approve or disapprove proposed transactions or transfers in the manner provided by the Declaration of Condominium, and to charge a preset fee, not to exceed the maximum permissible by law, in connection with such right of approval. In connection with the lease of units, the Board may require the posting of a security deposit to protect against damages to the Common Elements or Association Property, in the manner provided by law.

4.7 To Enforce. The Directors may enforce by legal means the provisions of applicable laws and the Condominium Documents, and to interpret said Condominium Documents, as the final arbiter of their meaning.

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

4.9 To Insure. The Directors shall carry insurance for the protection of the Unit Owners and the Association, pursuant to requirements contained in the Declaration of Condominium and Chapter 718, Florida Statutes (2002), both as amended from time to time.

4.10 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 units.

4.11 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.

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4.12 To Sue and Be Sued. The Directors may bring and defend suits.

4.13 To Deal in Real and Personal Property and Borrow Money. The Directors may make and execute contracts, deeds, mortgages, notes, and other evidence of indebtedness, leases, and other instruments by its officers and to purchase, own, lease, convey, and encumber real and personal property. The Directors may grant easements and licenses over the condominium property necessary or desirable for proper operation of the Condominium.

4.14 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 and 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 the County serving the Association. The Association need not accept the lowest bid. If a contract was awarded under the competitive bid procedures of this Section, 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 Section. The Association may opt out of competitive bidding requirements, by a unit owner vote, in the manner provided by law.

4.15 To Levy Fines. The Directors may, pursuant to Section 718.303, Florida Statutes (2002), impose fines against a unit not to exceed the maximum permissible by law, 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 owners, occupants, licensees, tenants, and invitees.

4.15.1 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.

4.15.2 The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing by being given notice of not less than fourteen (14) days. Notice shall be deemed effective when deposited in the United States Mail, certified, return receipt requested, to the address of the unit owner listed in the official records of the Association, and as to tenants, to the mailing address for the unit. 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, By-Laws, Rules and Regulations, Board policies and resolutions or laws which have allegedly been violated; and

(c) A short and plain statement of the matters asserted by the Association.

4.15.3 The party against whom the fine may be levied shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. The hearing shall be held before a Committee of other unit owners. If the Committee does not agree with the fine, the fine may not be levied. Should the Association be required to initiate legal proceedings to collect a duly levied fine, 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 hearings), at trial, and on appeal. Unit owners shall be jointly and severally liable for the payment of fines levied against tenants, guests, invitees, or other occupants of a unit.

4.16 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 the Section 718.103(6), Florida Statutes (2002), as amended from time to time, shall conduct their affairs in the same manner as provided in these By-Laws 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.

4.17 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 units with the applicable Fire and Life Safety Code.

4.18 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 unit owner's agreement to execute appropriate documentation regarding same.

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4.19 To Exercise Emergency Powers. In the event of any "emergency" as defined in Section 4.19.8 below, the Board of Directors may exercise the emergency powers described in this Section, and any other emergency powers authorized by Section 617.0207, Florida Statutes (2002), and Section 617.0303, Florida Statutes (2002), 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 Corporate action taken in good faith during an emergency under this Section to further the ordinary affairs of the Association shall bind the Association; and shall have the rebuttable presumption of being reasonable and necessary.

4.19.5 The Board may use reserve funds to meet Association needs.

4.19.6 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.

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

4.19.8 For purposes of this Section 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:

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

4.19.8.2 a hurricane warning;

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4.19.8.3 a partial or complete evacuation order;

4.19.8.4 federal or state "disaster area" status; or

4.19.8.5 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.

4.19.8.6 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 unit owners, the condominium property, or association property.

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5. OFFICERS.

5.1 Executive Officers. The executive officers of the Association shall be the President, one or more Vice Presidents, a Secretary, a Treasurer, and such assistant officers as may be desired, all of whom shall be elected annually by and from the Board of Directors, and who may be 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. Assistant officers need not be Directors.

5.2 President — Powers and Duties. The President shall be the chief executive officer of the Association, 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 did not 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 Section 6.1 above, or in defense of any claim, issue, or matter therein, he

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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.** 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 by-law, agreement, vote of members, or otherwise, and shall continue as to a person 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 power to indemnify him against such liability under the provisions of this Article.

6.6 **Amendment.** Anything to the contrary herein notwithstanding, the provisions of this Article 6 may not be amended without the approval in writing of all persons whose interest would be adversely affected by such amendment.

6.7 **Delegation.** To the extent permitted by law, the powers and duties of the directors and officers may be delegated for the purpose of management.

7. **MINUTES AND INSPECTION OF RECORDS.** Minutes of all meetings of unit owners 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), Florida Statutes (2002), as amended from time to time, shall be available for inspection by unit owners and Board members at all reasonable times. Provided, however, that the Directors may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and any copying.

8. **FISCAL MANAGEMENT.** Shall be in accordance with the following provisions:

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8.1 Budget. The budget shall be adopted by the Board. A proposed annual budget of common expenses shall be prepared by the Board of Directors which shall include all anticipated expenses for operation, maintenance, and administration of the 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 By-Laws. The proposed budget shall include reserves per Section 718.112(2)(f)2, Florida Statutes (2002), as amended from time to time, the funding of which may be waived or reduced by the owners. Reserve funds and any accrued interest on the funds shall remain in the reserve account for authorized reserve expenditures, unless their use for other purposes is approved in advance by a vote of the majority of the voting interests at a duly called meeting of the Association, or by the written approval of a majority of the voting interests. The budget will 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 to each member as provided in Article 8.2 hereof. If an adopted budget requires assessments against the unit owners in any fiscal or calendar year which exceed 115 percent of the assessments for the preceding year, the board upon written application of 10 percent of the voting interests to the board, shall call a special meeting of the unit owner within 30 days upon not less than 10 days' written notice to each unit owner. At the special meeting, unit owners shall consider and enact a budget. The adoption of the budget requires a vote of not less than a majority vote of all the voting interests. The Board of Administration may propose a budget to the unit owners at a meeting of members or in writing, and if the budget or proposed budget is approved by the unit owners at the meeting or by a majority of all the voting interests in writing, the budget is adopted. If a meeting of the unit owners has been called and a quorum is not attained or a substitute budget is not adopted by the unit owners, 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 condominium 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 Mailing. A copy of the proposed annual budget shall be mailed or hand-delivered to the unit owners not less than 14 days prior to the meeting of the Directors at which the budget will be adopted together with a notice of the meeting.

8.3 Assessments. The annual shares of the unit owners 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 10 days thereafter. The Association shall have the right to accelerate assessments of an owner

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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. Assessments for common expenses which are not provided for and funded in the budget or an amendment to the budget may be made by the Board of Directors, and the time of payment shall likewise be determined by them. Notice of the Board meeting at which such assessments shall be considered shall be posted and mailed to each unit owner 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 unit owners 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 units which shall be available for inspection at all reasonable times by unit owners. Such roll shall indicate for each unit the name and address of the owner, and the assessments and charges paid and unpaid. A certificate made by a duly authorized representative of the Association or by the Board of Directors as to the status of a unit's account may be relied upon for all purposes by any person for whom made.

8.6 Liability for Assessments and Charges. A unit owner shall be liable for all assessments and charges coming due while the owner of a unit, and such owner and owner's grantees or successors after a voluntary conveyance or other acquisition 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 unit for which the assessments are due. Where a mortgagee holding a first mortgage of record obtains title to a unit by foreclosure, such mortgagee and its successors and assigns shall only be liable for such unit's assessments, charges, or share of the common expenses which became due prior to acquisition of title as provided in the Florida Condominium Act (2002), as amended from time to time.

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

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

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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 days 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 late, 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 the late fee, then to any costs and reasonable attorney's incurred, and then to the assessment payment first due.

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 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 units and may withhold approval for the sale, lease, or other transfer of a unit, 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 unit owner a written notice of its intention to foreclose the lien as provided by law.

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

8.12 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 such as insurance placed through the Society Investor Protection Corporation (SIPC), as shall be designated by the Board of Directors. 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 SIPC or equivalent industry insurance. 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.

8.13 Commingling of Funds. All funds shall be maintained separately in the Association's name. No community association manager or business entity required to be licensed

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or registered under Section 468.432, Florida Statutes (2002), 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 (2002), 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.

8.14 Financial Reports. A complete financial report of actual receipts and expenditures of the Association shall be made annually which shall comply with Rule 61B-22, Florida Administrative Code (2002), as amended from time to time, and with Section 718.111(13), Florida Statutes (2002), as amended from time to time.

8.15 Fidelity Bonding. The Association shall obtain and maintain adequate fidelity bonding in the minimum principal sum set forth in Section 718.112(2)(j), Florida Statutes (2002), as amended from time to time, 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. In the case of a licensed manager, the cost of bonding may be reimbursed by the Association as the parties may agree. All persons providing management services to the Association, or otherwise having the authority to control or disburse association funds, shall provide the Association with a certificate of insurance evidencing compliance with this paragraph, naming the Association as an insured under said policy.

9. PARLIAMENTARY RULES. Robert's Rules of Order (latest edition) shall be used as a 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. Meetings shall also be conducted in accordance with these By-Laws 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 unless contrary to law.

10. BY-LAW AMENDMENTS. Amendments to the By-Laws shall be adopted in the following manner:

10.1 Proposal of Amendments. An amendment may be proposed by either 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 By-Laws 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 saying, "SUBSTANTIAL REWORDING OF BY-LAWS. SEE BY-LAW NUMBER FOR PRESENT TEXT."

10.3. Notice. Copies 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 a vote of sixty-seven percent (67%) of the voting interests of the Association present (in person or by proxy) and voting at a duly noticed meeting of the Association, provided that no amendment may be considered approved unless 26 units have voted with respect to the proposed amendment, whether in favor or opposed. 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 Collier County Public Records according to law.

10.6 Automatic Amendment. These By-Laws 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 Chapter 718, Florida Statutes (2002) Chapter 617, Florida Statutes (2002), 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 By-Laws, 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 By-Laws as the Board deems necessary to comply with such operational changes as may be enacted by future amendments to Chapters 607, 617, and 718 of the Florida Statutes (2002), 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 unit or the share in the common elements appurtenant to it, or increase the owner's share of the common expenses, unless the record owner of the unit concerned and all record owners of the mortgages on such apartment shall join in the execution of the amendment, and all other unit owners approve the amendment.

11. DISPUTE RESOLUTION.

11.1 Mandatory Arbitration. If unresolved, disputes between the Board and unit owners as defined in Section 718.1255(1), Florida Statutes (2002), as amended from time to time, must be arbitrated in mandatory non-binding arbitration proceedings as provided in the

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Condominium Act prior to commencing litigation, so long as the Condominium Act requires such arbitration.

11.2 Unit Owner Inquiries. When a unit owner files a written inquiry by certified mail with the Board, the Board shall respond in writing to the unit owner within 30 days of receipt of said inquiry. The Board's response shall either give a substantive response to the inquirer, or 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 60 days after the receipt of the inquiry, provide in writing a substantive response to the inquirer. The 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 unit. In the event of a grievance of a unit owner against the Association, the Board of Directors, or a member thereof, written notice in detail of the grievance shall be given the Directors prior to the institution of litigation, (including but not limited to arbitration) and they shall be allowed a period of 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 unit owner 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 By-Laws and the Condominium Documents.

12.1 Conflicts. The term "Condominium Documents," as used in these By-Laws and elsewhere shall include the Declaration of Condominium, Articles of Incorporation, these By-Laws, 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;

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3. By-Laws; 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 By-Laws is deemed invalid, the remaining provisions shall be deemed in full force and effect.

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AMENDED AND RESTATED

RULES AND REGULATIONS

OF THE MARQUESA AT BAY COLONY CONDOMINIUM ASSOCIATION, INC.

SUBSTANTIAL REWORDING OF THE RULES AND REGULATIONS - SEE CURRENT RULES AND REGULATIONS FOR CURRENT TEXT

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ALTERATIONS/MODIFICATIONS/CHANGES

1. The Unit Owner shall not make or cause to be made any structural additions or alterations, modifications, decorations, repairs, replacements or changes to the Common Elements (hereinafter "Common Areas") or the Limited Common Elements (hereinafter "Limited Common Areas") or to any outside or exterior portion of the building, whether a part of a Unit, the Common Areas or Limited Common Areas, without the prior written approval of the Board of Directors (hereinafter the "Board").

2. Nothing shall be done in any Unit or in, on, or to the building itself which would structurally change the building in any manner. In addition thereto, Unit Owners shall not cause or permit anything, including, but not limited to, signs, canopies, shutters, awnings, radio or television antenna to be placed on the outside of the building, nor affixed to or placed upon the exterior walls of a Unit or roof or any part thereof, without the prior written consent of the Board. Permission will not be given to alter or modify the Balconies.

3. If you are having false walls, built in cabinets, etc. added to the interiors of your apartment, please contact Smith Fire Sprinkler. It is cost effective to have them check your plans in regard to sprinkler location before the building begins, rather than changing afterwards.

SUBCONTRACTOR RULES

1. Before work begins, the subcontractor must submit a list of names and vehicles that will be on site. Copies of licenses, insurance, worker's compensation must also be on site with the manager.

2. Workers must always park in designated parking areas.

3. Workers must sign in and out daily.

4. Workers may HAVE APARTMENT KEY ONLY. DO NOT ISSUE COMMON AREA KEYS.

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5. Shopping carts are not for subcontractor's use.

6. All equipment must be removed from the common areas each day.

7. Radios must be played at low volumes and turned off if distracting to any resident.

8. There is no smoking allowed in any common areas.

9. Drop cloths must be laid on common area carpeting. Subcontractors must maintain a tidy work place.

10. Work may be done during the hours of 8:00 am - 4:00 pm Monday - Friday. The only exceptions will be made by manager on an emergency basis.

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PARKING

1. Each unit has two parking spaces allotted.

2. Guest parking is **not** extra residential parking and **may not** be used in this way.

3. If you only use one space and would like to rent out the second, notify manager.

4. If you have more than two cars request manager for a rental space.

5. If you are expecting guests that will use more than 3 spaces notify manager. She will help make provisions.

6. Overnight parking in a guest area MUST be approved by manager.

7. Do not permit cleaning personnel or subcontractors to use your garage spaces.

8. Cleaning persons, subcontractors and delivery trucks must use the service parking lot located at the subcontractors entrance.

Parking Rule

No vehicle belonging to a unit owner or tenant shall be permitted to be parked overnight on The Marquesa property unless it is parked in an approved parking space within the garage area.

Violating vehicles will be tagged. The Marquesa at Bay Colony Condominium Association, Inc. ("MCA") may have the subject vehicle towed at the owner or tenant's expense if the violation is not corrected within a reasonable number of hours as stated on tag.

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BALCONIES, AND SCREENED PORCHES

1. It is the responsibility of adults to supervise minors on balconies, and screened porches at all times.

2. Nothing is to be thrown, or flown from the balconies or screened porches.

3. Grilling or outdoor cooking of any type on unit balconies, or screened porches is prohibited.

4. No garments, rugs, etc. may be hung from the balconies, windows, or other portions of the unit. No rugs may be dusted or shaken from the balconies, terraces, porches or windows. Rugs may be cleaned within the Units but not in any other portion of the condominium property.

5. Flooding or "hose" washing of balconies, terraces, and/or porches is prohibited. When watering plants or cleaning balconies, terraces, and/or porches take care so that excess water does not fall on lower balconies.

6. Before unit Owners leave for extended periods they must close the hurricane shutters. If the unit does not have shutters then all furniture, plants, etc. must be placed INSIDE the Unit. All windows must be closed and locked.

COMMON AREAS

1. All "Common Areas" are deemed "NO SMOKING AREAS" (per Florida Clean Air Act).

2. Proper dress and footwear must be worn in the building and elevators at all times. When going to and from the pool and beach, proper footwear, cover-up, robe or shirt must be worn. Likewise you MUST be dry when coming from these areas so as not to drop or track water on the floors, elevators and carpeted areas. Beside being unsightly, wet floors make for unsafe slippery conditions.

3. Common Areas shall not be obstructed, littered, defaced or misused in any manner and shall be kept free and clear of rubbish, debris and unsightly materials. Repair of destruction or damage caused to a Common Area shall be the responsibility, and the expense of, the responsible Unit Owner.

4. No noxious or offensive activity shall be carried on in the Common Areas, or in any unit, nor shall anything be done, either willfully or negligently, which may be injurious to the reputation of the property.

5. Workers should be advised to keep all Common Areas clean. Clean-up of Common Areas after such activity is the responsibility of the Unit Owner. If Common Areas need to be cleaned or repaired after

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workers leave, the Unit Owner responsible will be charged for the work. No work is to be done in the Common Areas.

6. The Common Walkways and Hallways may not have ANYTHING placed thereon, i.e., shoes, plants, furniture, golf clubs, children's paraphernalia, door wreaths, door mats, etc.

7. Rollerblades, skates, skateboards and/or similar devices are not allowed to be worn or used in the Common Areas at any time. Likewise, ball-playing, frisbee throwing and/or similar sports play is not permitted anywhere on the Common Areas, specifically including the swimming pool, sun deck and parking lots.

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COMPLAINTS/SUGGESTIONS

1. Complaints, suggestions and/or requests should be submitted in writing to the Manager or to the Board. Verbal complaints to the Manager should be made only if the situation requires immediate attention. At no time should complaints or suggestions be made directly to the cleaning staff or grounds maintenance personnel.

DELIVERIES/MOVING

1. All deliveries are to be attended by the Unit Owner. If this is not possible, advance notice MUST be given to, and other arrangements made with the Manager. It must be recognized that the basic policy of the Association is that deliveries WILL NOT be accepted by the Manager or other Association personnel.

2. Due to the volume of furniture involved, moving by Unit Owners in or out of the building must be scheduled with the Manager. The Manager will specify parking of trucks for any such occasion.

3. The elevator must be padded before any delivery or move is made. This will be done by maintenance personnel. Please give manager 48 hour's notice.

4. Any damage caused due to the delivery will be charged to the Unit Owner.

ELEVATORS

1. Florida law prohibits smoking in the elevators.

2. Delivery men are to be instructed to be extremely careful as The Marquesa does not have service elevators. Any damage caused by deliveries will be charged to the owner.

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3. Minors shall not be permitted to play in or around the elevator. Minors using the elevator are to be accompanied by an adult.

4. If moving, notify the Manager 48 hours in advance so proper usage of the elevators and the Common Areas can be maintained.

5. If caught in an elevator:

   A. If claustrophobic, sit down. This gives the illusion of being in a larger space.

   B. All elevators are equipped with a speaker system. Press button and follow instructions. The system is in a box under the floor call buttons.

   C. There is also an alarm buzzer to alert anyone in the building.

   D. For safety reasons, do not attempt to get out of a stalled elevator. Wait for help.

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EXERCISE ROOM

1. All equipment is used at your own risk. The Marquesa may not be held liable for any injuries caused due to the use of the equipment.

2. Children under the age of 12 may not use the equipment. They may not be in the room unless accompanied by an adult.

3. If you more any equipment, replace it prior to leaving.

4. Return air conditioning temperature to 78° when finished.

5. DO NOT REMOVE towels or equipment from the room.

6. Do not leave the television on parental lock.

7. Do not remove any equipment from the exercise room.

8. Report any deficiencies immediately.

SAUNA USE

1. Read instructions before using the spa.

2. Shower before use.

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3. Remove any make up before you enter (it may inhibit the natural sweating process).

4. Always sit on a mat or towel.

5. Sprinkle water on rocks to produce steam.

6. Do not place anything on the heater coals.

7. Do not touch temperature sensor above heater.

8. Mare sure that sauna is turned off before leaving, and that you have not left anything inside.

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GENERAL RULES AND REGULATIONS

1. All persons occupying Units in the building, whether owners, lessees, or guests, will register with the Manager upon arrival.

2. The use of the Units shall be consistent with the existing laws and regulations set forth in the Amended By-Laws and Amended Declaration of Condominium and shall not constitute a nuisance.

3. No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise designed for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted in any Unit or in the Social Room.

4. No clothesline or similar device are allowed on any portion of the condominium property.

5. Nothing shall be done or kept in any Unit, or in the Limited Common or Common Areas, which would result either in the cancellation of or an increase in the rate of insurance on the building or contents thereof; or which would be a violation of the law.

6. When coming or going from the pool use the rear door by the exercise room.

GUESTS

1. The Unit Owners and Lessees are absolutely responsible to see that all guests are apprised of, and comply with, these Rules and Regulations.

2. When the Unit Owner is in residence, with the exception of family members, all overnight guests must be registered with the Manager. When the Unit Owner is not in residence all persons occupying the Unit must be registered with the Manager, properly identified, and previously authorized by the owner.

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GUEST SUITE

The Association provides one guest room for the use of the Unit Owners and lessees.

1. Guest Suites are part of the Common elements, and they are for the use and the convenience of the Marquesa unit owners and their guests while the host unit owner is in residence. The guest suites are not for extended use or for public use.

2. Reservations should be made through the office of the Manager.

3. Requests for reservations will be handled on a first come, first serve basis. Also, to assure that all unit owners have fair and equitable access to the suites for their guests, any one owner is limited to two consecutive uses, and to a maximum of three uses per calendar year, unless demand for the guest suites indicates that this rule may be changed from time to time to best accommodate the needs of the unit owners.

   Commencing January 1, 1996 there will be a lottery drawing for the weeks that certain holidays fall within. These will be Easter, Thanksgiving, Christmas and New Year. These drawings will be held four weeks in advance. Please let the manager know of your desire to be included at least one week prior to the date of the drawing will be held.

   The guest suite can only be booked two months prior to any given date.

4. The maximum stay is seven (7) days, unless and extension has been specifically authorized by the manger for not more than seven (7) additional days.

5. **The guest suite use fee is currently $90.00 per day "in season" (November 1 through April 30) and otherwise is $50.00 per day.**

6. Please notify the Manager as soon as possible, but at least 24 hours prior, if there is a need to cancel the reservation.

7. Guests may register and pick up the keys at the keys at the Marquesa Manager's office after 1:00 pm. Guests should return the keys to the Manger's office. Checkout time is 11:00 am. A registration form will be available at the Manager's office at the time of check-in. The guests' name, address, telephone number and vehicle registration information will be requested. If arriving when the Manager is not on site, please make arrangements for owner to receive keys during office hours.

8. Maid service will be provided Monday, Tuesday, Wednesday, Thursday, Friday and Saturday. There will be no service on holidays.

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9. Long distance telephone calls may only be made by credit card or reverse charges on the telephone in the guest suite. The guest suite phone number is (239) 594-7117.

10. The host unit owner will be responsible for any damage to the guest suite or to other condominium property caused by the guest, as well as for the guest's compliance with all applicable Marquesa at Bay Colony Rules and Regulations, which will be available in the guest suite.

11. After the guest's departure, a billing statement will be forwarded to the host unit owner.

12. The guest suite is part of the common Elements of the Association and therefore subject to Florida law which prohibits smoking in the interiors of these areas. Your guest's compliance is appreciated.

13. These rules and procedures may be changed without notice.

14. If 24-hour cancellation notice is not given there will be an appropriate charge billed to your account, unless the manager is able to still rent the suite.

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KEYS

Each unit has been provided with two apartment keys and two Common Areas keys.

Common Area keys are NON DUPLICABLE. These keys may not be given out. If you are having someone work in your apartment and you will not be home, they can gain access from the Manager. The only people who should have access by these keys are residents and staff. If a resident is responsible for a breach in this security, they can be responsible for the cost to re-key the facility.

All Common Area doors must always be locked. Please use your key to gain access. DO NOT BLOCK DOORS OPEN.

Garage lobby doors are locked when the manager leaves in the evening and are opened when the maintenance person opens in the morning.

MISCELLANEOUS ITEMS

GRILLS

The Condominium Association provides one grill for the use of the owners. This grill is located by the pool house.

1. Make sure the cover is not near the grill when the grill is warm.

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2. Ensure that you are aware of the directions for use before cooking.

3. Brush off any food when finished.

4. Make sure the gas is turned off when finished.

GROCERY/LUGGAGE CARTS

The Condominium Association has secured two luggage and two grocery carts for use by all Unit Residents and Guests; carts are stationed in garage by elevator lobby adjacent to the trash room. After usage PLEASE RETURN the carts immediately to the garage (not left on your floor, in the elevator or in the lobby). Insofar possible, attempt to use the carts within the building and on the outside concrete and brick. These carts are for the exclusive use of owners/guests and lessees. They may not be used by tradespeople.

BICYCLES

1. Bicycles must be stored in either the designated bicycle rooms or in the Association furnished bicycle racks. Bicycles may not be brought into the building or into the individual Units for any reason.

2. Bicycles are not to be chained to pillars, trees or pipes.

MINORS

1. Minors, being those under twelve (12) years of age, are to be supervised by an adult at all times. Playing in the lobby, hallways elevators, swimming pool and parking lots is not permitted. Any minor must be accompanied at all times in the pool/spa areas saunas, as well as in the exercise or social rooms.

2. Minors shall at all times act in an orderly manner without creating disturbing noises or being a nuisance to the Unit Owners.

PETS

Unit Owners may have small domesticated pets (limited to and defined as 1 dog or 2 cats, as well as two (2) small caged birds, and a reasonable number of tropical fish in one aquarium, provided they are not kept, bred or maintained from commercial purposes. All dogs and cats shall be kept on a leash or hand carried by the Unit Owner at all times when inside the building but outside the Owner's Unit. If any pet kept on the premises should become a source of unreasonable annoyance in the sole opinion of the Board, then the Unit Owner, when so notified in writing by the Board, shall immediately remove said pet from the premises. Pets may be WALKED ONLY OUTSIDE THE BUILDING. UNIT OWNERS ARE RESPONSIBLE TO CLEAN UP

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AFTER THEIR PETS. Unit Owners may not leave pets on terraces or screened porches where their noise may bother others. No pets are permitted in the pool area.

POOL/SPA/DECK/SAUNAS

1. The pool area will be open from 8:00 a.m. to dusk daily. No night usage allowed.

2. Swim at your own risk. NO LIFEGUARD IS PROVIDED.

3. Shower before you enter the pool or spa. All suntan lotions and oils must be removed before entering the pool or spa.

4. No food or alcohol allowed in the pool, spa or saunas. Plastic or metal containers are allowed for drinks. No glass containers please.

5. Minors MUST BE ACCOMPANIED BY AN ADULT. Toddlers may go in the pool provided they are wearing a leak-proof protective garment over a diaper. Any protective garment must be dry and clean prior to entering the pool.

6. Persons with open sores, cuts or communicable diseases cannot enter the pool or spa. (This is a County restriction).

7. No pets or other animals are allowed in the pool, deck, spa or sauna areas at any time, under any circumstances.

8. All persons are required to wear a robe, cover-up or shirt, and footwear when appearing in elevators and lobby while going to and from the pool area.

9. Proper ingress and egress to and from the pool area is through the side door beside the exercise room.

10. No running or excessive noise in pool area. Radios, tape recorders and similar devices are not permitted in the pool or spa area unless used with headphones. No yelling from terraces to pool area.

11. No rocks, money or hard objects are to be thrown into the pool or spa.

12. Management has the right to limit the number of people in the pool,.spa or saunas.

13. Use of the pool, spa or saunas shall be consistent with existing laws, the Condominium Rules and Regulations, other reasonable restrictions, and shall not constitute a nuisance.

14. Due to high temperature, the spa and saunas should not be used by minors or people with heart condition. The spa is NOT to be used as a kiddie pool or occupied after dusk.

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15. The pool, spa and saunas are for the Unit Owners, approved lessees and their guests only. Pool parties in excess of five (5) guests require prior management approval.

RENTALS AND LEASES

1. An application for rental/lease approval must be sent to the Board at least thirty days before the commencement date.

2. A check for $100 must accompany the application.

3. Renters/lessees may only have two cars.

4. Renters/lessees MAY NOT have any pets, there will be no exceptions made.

5. An owner may rent/lease their apartment once in a twelve month period. The rent/lease must be for a minimum of three months. For example Mr. X rents his apartment Jan., Feb., and March. He cannot rent it again until the January of the following year.

6. No lease can last more than 12 months. The owner may re-apply to the Board for an extension which would be approved unless there is due cause to cancel.

7. Renters/lessees must be provided a set of rules and regulations by the owner and comply by them.

8. Renter/lessees may request the use of the guest suite. As long as an owner does not wish to use it them the renter will be given approval.

9. When an owner has rented/leased their unit they understand that they have rescinded their privileges at The Marquesa for that period of time.

10. If any damage is occurred in the common areas of the building by a renter/lessee the unit owner will be billed.

SOCIAL ROOM

1. The Board shall, from time to time, adopt regulations governing the use of the Social Room; including, but not limited to, the type of functions permitted; the maximum numbers of persons involved, and any and all other reasonable regulations, keeping in mind both the right of Unit Owners to use the Room, as well as the desire by all to maintain the high standards of The Marquesa.

2. When using the Social Room, minors must be accompanied by an Unit Owner, Lessee or another adult.

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3. The hours for the use of this room is from 7:00 AM to 10:00 PM, unless otherwise approved by the Board or the manager.

4. Use of the Social Room for allowable functions is permitted by Unit Owners and Lessees, and must be arranged in advance with the Manager. The Social Room may not be reserved more than ninety (90) days in advance, except by the Condominium Association itself. No guest may reserve the room.

5. With regard to the Social Room, the responsibility for damage is that the Unit Owner or Lessee reserving the Room. If there is damage, the charge for repair will be billed to and paid by the responsible Owner or Lessee.

6. A detailed description of the use must be given in writing to the manager.

7. A list of any caterers or decorators must also be submitted with copies of licenses and insurance where necessary.

8. The manager and/or Board shall have the full authority to decide if the function is permissible. The function may not hinder the well being of the residents.

9. **There is no charge for the rental of the room. Residents will be charged $15 per hour for extra housekeeping required or for set up/clean up. There will be a reservation request form signed when the initial reservation is made in the manager's office.**

10. The resident will be totally responsible for all activities of their guest and must provide a guest list to the manger prior to the event. The manager will then make the appropriate arrangements with security.

11. The Social Room may not be used for business functions or meetings, except for Marquesa Condominium Association business, or meetings approved by the Board.

12. A meeting must be set with the manager to discuss the function and an agreement will be signed to accept charges incurred.

13. These rules may be changed by the Board without notice.

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TRASH AND TRASH CHUTES

1. All garbage and non-recyclable trash shall be deposited in the plastic bags (heavy duty; no Publix bags please) into the disposal installations provided for such purpose. Instructions for garbage and trash disposal are posted in each trash disposal area. Recyclable materials are to be hand carried and placed in the appropriate recycling bins, which are located at the north end of the garage.

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2. No garbage trash or combustible materials are to be left in either the Unit storage areas or in the trash disposal areas on each floor.

3. No garbage or other items are to be dropped down the trash chutes between the hours of 8:00 PM and 8:00 am.

4. GLASS OF ANY NATURE: Any and all glass of any nature is not to be dropped down the trash chute. HAND CARRY these items and deposit them in the appropriate recycling bins provided.

5. Paint cans, chemicals, etc. are not to be dropped down the trash chutes or deposited in the dumpsters, in the trash room by the elevator garage lobby. Call the Manager for proper disposal.

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VIOLATION POLICY

The Directors may, pursuant to F.S. 718.303, impose fines not to exceed $100.00 per violation, for failure to comply with the provisions of the condominium documents, including the rules and regulations, by owners, occupants, licensees, tenants, and invitees. A fine may be imposed for each day continuing violation with a single notice and opportunity for hearing provided that no fine shall in the aggregate exceed $1000.00

This statement may be found in the By-Laws of The Marquesa at Bay Colony Condominium Association, Inc in Section 4.14.

The Board may also address violations through legal action.

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