



*The*  
*Sandcastle II*

**Condominium Association, Inc.**

**Condominium  
Documents**

720 South Collier Boulevard  
Marco Island, FL 34145  
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**CONDOMINIUM DOCUMENTS FOR  
THE SANDCASTLE II CONDOMINIUM ASSOCIATION, INC.**

Includes Third Amended and Restated Declaration of Condominium and Third Amended and Restated By-Laws.

**NOTE:** Original condominium documents for The Sandcastle II, A Condominium were recorded in the Public Records of Collier County, Florida on December 28, 1982, at the Official Records Book 1000, Pages 851 et seq.

# **THE SANDCASTLE II CONDOMINIUM ASSOCIATION, INC**

## **EXHIBITS**

- A. Copy of Third Amended and Restated Declaration of Condominium
- B. Copy of Amended and Restated Articles of Incorporation
- C. Copy of Third Amended and Restated By-Laws
- D. Copy of Survey
- E. Copy of Plot Plan

**Index**  
**Declaration of Condominium**

		<u>PAGE</u>
1	<b>SUBMISSION TO CONDOMINIUM</b>	1
2	<b>NAME AND ADDRESS</b>	1
3	<b>DESCRIPTION OF CONDOMINIUM PROPERTY</b>	1
	<b>3.1 Application of Declaration of Condominium</b>	1
	<b>3.2 Construction</b>	2
4	<b>DEFINITIONS</b>	2
	<b>4.1 Apartments</b>	2
	<b>4.2 Apartment Owner</b>	2
	<b>4.3 Assessment</b>	2
	<b>4.4 Association</b>	2
	<b>4.5 Association Property</b>	2
	<b>4.6 Board of Directors</b>	2
	<b>4.7 Common Expense</b>	2
	<b>4.8 Common Surplus</b>	2
	<b>4.9 Condominium</b>	2
	<b>4.10 Condominium Documents</b>	3
	<b>4.11 Family</b>	3
	<b>4.12 Fixtures</b>	3
	<b>4.13 Guest</b>	3
	<b>4.14 Institutional Mortgagee</b>	3
	<b>4.15 Lease</b>	3
	<b>4.16 Limited Common Elements</b>	3
	<b>4.17 Occupant</b>	3
	<b>4.18 Primary Institutional Mortgagee</b>	4
	<b>4.19 Primary Occupant</b>	4
	<b>4.20 Reasonable Attorney's Fees</b>	4
	<b>4.21 Rules and Regulations</b>	4
	<b>4.22 Special Assessment</b>	4
	<b>4.23 Unit</b>	4
	<b>4.24 Unit Owner</b>	4
	<b>4.25 Voting Certificates</b>	4
	<b>4.26 Voting Interest</b>	4
5	<b>DESCRIPTION OF IMPROVEMENTS; SURVEY AND PLANS</b>	4
	<b>5.1 Survey and Plot Plans</b>	4
	<b>5.2 Units: Unit Types</b>	5
	<b>5.3 Unit Boundaries</b>	7

		<u>PAGE</u>
6	<b>CONDOMINIUM PARCELS, APPURTENANCES AND USE</b>	8
	6.1 Number	8
	6.2 Appurtenances to Each Unit	8
	6.3 Use and Possession	8
7	<b>COMMON ELEMENTS AND EASEMENTS</b>	8
	7.1 Definition of Common Elements	8
	7.2 Easements	9
	7.3 Restraint Upon Separation and Partition	11
8	<b>THE ASSOCIATION</b>	11
	8.1 Articles of Incorporation	11
	8.2 By-Laws	11
	8.3 Delegation of Management	11
	8.4 Membership	12
	8.5 Acts of the Association	12
	8.6 Powers and Duties	12
	8.7 Fiscal Matters	12
	8.8 Purchase of Units	12
	8.9 Official Records	13
9	<b>LIMITED COMMON ELEMENTS</b>	14
	9.1 Description of Limited Common Elements	14
	9.2 Exclusive Use; Transfer of Use Rights	15
10	<b>ASSESSMENTS AND LIENS</b>	15
	10.1 Common Expenses	16
	10.2 Share of Common Expense	16
	10.3 Ownership	16
	10.4 Liability for Assessment	16
	10.5 No Waiver	16
	10.6 Excuse from Payment	16
	10.7 Certificate as to Assessments	16
	10.8 Application of Payments; Failure to Pay; Interest	17
	10.9 Acceleration	17
	10.10 Liens	17
	10.11 Priority of Lien	18
	10.12 Assignment of Claim by Association	18
	10.13 Foreclosure	18
	10.14 Transfer of Ownership of Foreclosed Unit	18
	10.15 Mortgage Foreclosure	18
	10.16 Assessment Certificate	19
11	<b>MAINTENANCE AND LIMITATION UPON IMPROVEMENT</b>	19
	11.1 Units	19
	11.2 Common Elements	21
	11.3 Appliance Maintenance Contracts	22
	11.4 Alteration to Units and Limited Common Elements by Unit Owners	22
	11.5 Enforcement of Maintenance	23
	11.6 Negligence	23

**PAGE**

<b>12</b>	<b>USE RESTRICTIONS</b>	<b>23</b>
	<b>12.1 Units</b>	<b>24</b>
	<b>12.2 Occupancy in Absence of Owner</b>	<b>24</b>
	<b>12.3 Maximum Occupancy</b>	<b>24</b>
	<b>12.4 Pets</b>	<b>24</b>
	<b>12.5 Nuisances</b>	<b>25</b>
	<b>12.6 Maintenance and Appearance</b>	<b>25</b>
	<b>12.7 Common Areas</b>	<b>25</b>
	<b>12.8 Lawful Use</b>	<b>25</b>
	<b>12.9 Signs</b>	<b>25</b>
	<b>12.10 Minors</b>	<b>25</b>
	<b>12.11 Rules and Regulations</b>	<b>26</b>
	<b>12.12 Motor Vehicles and Boats</b>	<b>26</b>
<b>13</b>	<b>FORMS OF OWNERSHIP</b>	<b>26</b>
	<b>13.1 Individual Owner</b>	<b>26</b>
	<b>13.2 Co-Ownership</b>	<b>26</b>
	<b>13.3 Ownership by Corporations or Trusts</b>	<b>26</b>
	<b>13.4 Life Estate</b>	<b>26</b>
<b>14</b>	<b>TRANSFER</b>	<b>27</b>
	<b>14.1 Sale or Gift</b>	<b>27</b>
	<b>14.2 Devise or Inheritance</b>	<b>27</b>
	<b>14.3 Other Transfers</b>	<b>27</b>
	<b>14.4 Ad Hoc Committee</b>	<b>27</b>
	<b>14.5 Procedures</b>	<b>27</b>
	<b>14.6 Exception</b>	<b>30</b>
	<b>14.7 Unapproved Transfers</b>	<b>30</b>
<b>15</b>	<b>LEASING OF UNITS</b>	<b>30</b>
	<b>15.1 Procedures</b>	<b>30</b>
	<b>15.2 Term of Lease and Frequency of Leasing</b>	<b>32</b>
	<b>15.3 Occupancy During Lease Term</b>	<b>32</b>
	<b>15.4 Regulation by Association</b>	<b>32</b>
<b>16</b>	<b>INSURANCE</b>	<b>33</b>
	<b>16.1 Insurance Policies</b>	<b>33</b>
	<b>16.2 Liability Insurance</b>	<b>33</b>
	<b>16.3 Fire and Casualty Insurance</b>	<b>33</b>
	<b>16.4 Additional Insurance</b>	<b>35</b>
	<b>16.5 Association - Shares of Proceeds</b>	<b>35</b>
	<b>16.6 Insurance Trustee - Shares of Proceeds</b>	<b>35</b>
	<b>16.7 Distribution of proceeds</b>	<b>36</b>
	<b>16.8 Agent for Association</b>	<b>37</b>
	<b>16.9 Owners' Individual Insurance Policies</b>	<b>37</b>
	<b>16.10 Extent of Coverage</b>	<b>37</b>
<b>17</b>	<b>RECONSTRUCTION OR REPAIR AFTER CASUALTY</b>	<b>37</b>
	<b>17.1 Damage to Common Element</b>	<b>37</b>
	<b>17.2 Plans and Specifications</b>	<b>38</b>
	<b>17.3 Responsibility</b>	<b>38</b>

		<u>PAGE</u>
	17.4 Assessment to Reconstruct	39
18	CONDEMNATION OR EMINENT DOMAIN	39
19	TERMINATION OF CONDOMINIUM	40
20	OBLIGATIONS OF OWNERS	40
	20.1 Compliance	40
	20.2 Condominium Act Waiver	40
	20.3 Attorney's Fees and Costs	41
	20.4 No Waiver of Rights	41
	20.5 No Election or Remedies	41
	20.6 Notice of Lien or Suit	41
	20.7 Limitation Upon Liability of Association	42
	20.8 Restraint Upon Assignment of Shares in Assets	42
	20.9 Approval or Disapproval of Matters	42
21	RIGHTS OF MORTGAGEES	42
	21.1 Approvals	42
22	AMENDMENT OF DECLARATION	43
	22.1 Method	43
	22.2 Certificate	43
	22.3 Effective Days	43
	22.4 Limitation of Amendment	43
	22.5 Correction of Errors	43
	22.6 Exceptions	43
23	MISCELLANEOUS	43
	23.1 Severability	43
	23.2 Applicable Statues	44
	23.3 Conflicts	44
	23.4 Interpretation	44
	23.5 Exhibits	44

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Retn:  
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NAPLES FL 34103

(Space above line for recording information)

**CERTIFICATE OF AMENDMENT**

THE UNDERSIGNED, being the duly elected and acting President of The Sandcastle II Condominium Association, Inc., a Florida corporation, not for profit, does hereby certify that at a duly called meeting of the members held on January 12, 2008 where a quorum was present, after due notice, the amendments to the governing documents set forth on Exhibit "A" attached hereto was approved and adopted by the required vote of the membership. The Declaration of Condominium of The Sandcastle II, A Condominium was originally recorded at O.R. Book 1000, Pages 851 et seq., Public Records of Collier County, Florida.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand and the seal of the corporation.

THE SANDCASTLE II CONDOMINIUM  
ASSOCIATION, INC. (SEAL)

By: Cheryl Bubb, President  
Cheryl Bubb, President

Art Winterhalter  
Witness  
Print Name: Art Winterhalter

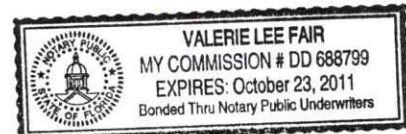
Kristina S. Pruyn  
Witness  
Print Name: Kristina S. Pruyn

STATE OF FLORIDA  
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of March, 2008, by Cheryl Bubb, as President of The Sandcastle II Condominium Association, Inc., the corporation described in the foregoing instrument, who is personally known to me or who has produced \_\_\_\_\_ as identification

Valerie Lee Fair  
Notary Public, State of Florida  
Valerie Lee Fair  
Printed Name of Notary Public  
Serial Number: DD 688799  
My Commission Expires: 10-23-2011

(SEAL)





THIRD AMENDED AND RESTATED  
DECLARATION OF CONDOMINIUM  
OF THE SANDCASTLE II, A CONDOMINIUM

KNOW ALL MEN BY THESE PRESENTS:

That heretofore on December 28, 1982, the original Declaration of Condominium of THE SANDCASTLE II, a Condominium (hereinafter called the "Condominium" was recorded in Official Records Book 1000, Page 851, et seq., of the Public Records of Collier County, Florida. That heretofore on August 16, 1990, the Amended and Restated Declaration of Condominium of the Sandcastle II, a Condominium, was recorded in Official Records Book 1551, Page 1621, et seq., of the Public Records of Collier County, Florida. That heretofore on April 2, 1998, the Second Amended and Restated Declaration of Condominium of the Sandcastle II, a Condominium, was recorded in Official Records Book 2404, Page 1542, et seq., of the Public Records of Collier County, Florida. That Second Amended and Restated Declaration of Condominium is hereby amended in part and restated in its entirety in this document.

1. SUBMISSION TO CONDOMINIUM: This Third Amended and Restated Declaration of Condominium is made by THE SANDCASTLE II CONDOMINIUM ASSOCIATION, INC., a Florida corporation not-for-profit, hereinafter the "Association". The land described in this Declaration and the improvements located thereon have already been submitted to condominium ownership and use pursuant to the Florida Condominium Act, Section 718, Florida Statutes. No additional land is being submitted to condominium ownership by this Declaration, and no additional units are being created.

2. NAME AND ADDRESS: The name of this Condominium is THE SANDCASTLE II, A CONDOMINIUM, and its address is 720 South Collier Boulevard, Marco Island, Florida 34145.

3. DESCRIPTION OF CONDOMINIUM PROPERTY: The land which has been submitted to condominium ownership by the original Declaration is legally described in Exhibit "IC" to the original Declaration and Section 2.1 of the original Declaration which descriptions are hereby incorporated by reference.

3.1 Applicability of Declaration of Condominium. The covenants and restrictions contained in this Declaration shall run with the land and be binding upon and inure to benefit of all present and future owners of condominium parcels. The acquisition of title to a unit, or any interest in the condominium property, or the lease, occupancy, or use of any portion of the condominium property shall constitute an acceptance and ratification of all provisions of this Declaration and an agreement to be bound by its terms.

3.2 Construction. The provisions of this Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan of condominium ownership.

4. DEFINITIONS: The terms used in this Declaration and its exhibits shall have the meanings stated below and in Section 718, Florida Statutes, unless the context otherwise requires.

4.1 "Apartment" has the same meaning as the term "unit" as defined in the Condominium Act.

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

4.3 "Assessment" means a share of the funds required for the payment of common expenses which from time to time is assessed against the units.

4.4 "Association" means THE SANDCASTLE II CONDOMINIUM ASSOCIATION, INC., a Florida corporation, not-for-profit, which is the corporate entity responsible for the operation of the condominium.

4.5 "Association Property" includes the property, real and personal, in which title or ownership is vested in the Association or the use and benefit of its members.

4.6 "Board of Directors" or "Board" means the representative body which is responsible for the administration of the Association, and is the same body referred to in the Condominium Act, Section 718, Florida Statutes, as the "Board of Administration".

4.7 "Common Expenses" means all the expenses properly incurred by the Association in the performance of its duties, including expenses specified in s. 718.115, Florida Statutes.

4.8 "Common Surplus" means the amount of all receipts or revenues, including assessments, rents or profits, collected by a condominium association which exceeds common expenses.

4.9 "Condominium" means that form of ownership of real property which is created pursuant to the provisions of the Condominium Act, Section 718, Florida Statutes, and which is comprised entirely of units that may be owned by one or more persons, and in which there is appurtenant to each unit, an undivided share in common elements.

4.10 "Condominium Documents" means and includes this Declaration and all recorded exhibits thereto, as may be amended from time to time.

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

(A) One natural person, or,

(B) Two or more natural persons, each of whom is related by blood, marriage, or adoption to each of the other, or,

(C) Two or more natural persons meeting the requirements of 4.11 (B) above, except that there is among them one person who is not related to some or all of the others.

4.12 "Fixtures" means those items of tangible property which, by being physically annexed or constructively affixed to the unit, 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. Fixtures do not include the finished coatings of the walls.

4.13 "Guest" means any person who is physically present in or temporarily occupies an apartment at the invitation of the apartment owner without the payment of consideration.

4.14 "Institutional Mortgagee" means the holder of a first mortgage against a condominium parcel which holder is a bank, savings and loan association, mortgage banker, mortgage company, real estate or mortgage investment trust, pension or profit sharing trust, or Federal Housing Administration, the Veterans Administration, any agency of the United States of America or the holder of a first mortgage against a condominium parcel which mortgage is guaranteed or insured by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America or by any other public or private corporation engaged in the business of guaranteeing or insuring first mortgage loans, and their successors and assigns.

4.15 "Lease" means the grant, in writing, by a unit owner of a temporary right to the use of the owner's unit for a valuable consideration.

4.16 "Limited Common Elements" means those common elements which are reserved for the use of a particular condominium unit or units to the exclusion of all other units.

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

4.18 "Primary Institutional Mortgagee" means that institutional mortgagee, which, at any given time, holds first mortgages on more units in the condominium than any other institutional mortgagee.

4.19 "Primary Occupant" means the natural person approved for occupancy when title to a unit is held in the name of a trustee or a corporation or other entity. He shall in all respects be deemed the unit owner and shall exercise all rights as a unit owner, and be responsible for all obligations of a unit owner.

4.20 "Reasonable Attorney's Fees" means and includes reasonable fees for the services of attorneys-at-law whether legal services are performed prior to or subsequent to the filing of a lawsuit or administrative petition.

4.21 "Rules and Regulations" means the rules and regulations promulgated by the Board of Directors, from time to time concerning the use of the common elements.

4.22 "Special Assessment" means any assessment levied against unit owners other than the assessment required by a budget adopted annually.

4.23 "Unit" has the same meaning as the term "unit" as defined in the Condominium Act, Section 718, Florida Statutes.

4.24 "Unit Owner" has the same meaning as the term "unit owner" as defined in the Condominium Act, Section 718, Florida Statutes.

4.25 "Voting Certificate" means a document which designates one of the record title owners, or the corporation, partnership or entity representative who is authorized to vote on behalf of a condominium unit owned by more than one owner or by any entity.

4.26 "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 Association matters. There are (94) units, so the total number of voting interests is (94) votes.

## 5. DESCRIPTION OF IMPROVEMENTS; SURVEY AND PLANS:

5.1 Survey and Plot Plans. Attached to the original Declaration as Exhibit "IC", and incorporated by reference herein, are a survey of the Land and plot plans, which geographically describe the improvements in which units are located, and which show all the units, including their identification numbers, locations and approximate dimensions and the common elements and limited common elements. Together with this Declaration, the exhibit is in sufficient detail to identify each unit, the common elements and limited common elements, and their relative locations and dimensions.

5.2 Units; Unit Types. There are ninety-four (94) units. There is one (1) building, fifteen (15) stories in height above the ground floor. The units are described generally below:

First Floor:	101, 102, 103, 104, 105, 106, 107
Second Floor:	201, 202, 203, 204, 205, 206, 207
Third Floor:	301, 302, 303, 304, 305, 306, 307
Fourth Floor:	401, 402, 403, 404, 405, 406, 407
Fifth Floor:	501, 502, 503, 504, 505, 506, 507
Sixth Floor:	601, 602, 603, 604, 605, 606, 607
Seventh Floor:	701, 702, 703, 704, 705, 706, 707
Eighth Floor:	801, 802, 803, 804, 805, 806, 807
Ninth Floor:	901, 902, 903, 904, 905, 906, 907
Tenth Floor:	1001, 1002, 1003, 1004, 1005, 1006, 1007
Eleventh Floor:	1101, 1102, 1103, 1104, 1105, 1106, 1107
Twelfth Floor:	1201, 1202, 1203, 1205, 1206, 1207
Thirteenth Floor:	1301, 1302, 1303, 1304, 1305
Fourteenth Floor:	1401, 1402, 1403
Fifteenth Floor:	1501, 1502, 1503

Units 101, 201, 301, 401, 501, 601, 701, 801, 901, 1001, 1101, 1201, and 1301 shall have an A-type apartment.

All Type A units shall contain: two bedrooms, den, kitchen, dining area, living room, two bathrooms, foyer, laundry area, dressing area, and a terrace. There is approximately 1326 square feet of living space and approximately 405 square feet in the balcony area.

Units 103, 203, 303, 403, 503, 603, 703, 803, 903, 1003, 1103, and 1203 are B-type apartments. All Type B units contain: two bedrooms, two bathrooms, dressing area, laundry area, living room, dining area, foyer and terrace. There is approximately 962 square feet of living space and approximately 160 square feet in the balcony area.

Units 105, 205, 305, 405, 605, 705, 805, 905, 1005, 1105, and 1205 have C-type apartments. All Type C units contain: two bedrooms, two bathrooms, kitchen, dining area, living room, laundry area, foyer, dressing area, and terrace. There is approximately 1148 square feet of living space and approximately 160 square feet in the balcony area.

Units 107, 207, 307, 407, 507, 607, 707, 807, 907, 1007, 1107, and 1207 shall have D-type apartments. All Type D units contain: two bedrooms, two bathrooms, kitchen, dining area, living room, foyer, laundry area, dressing area and terrace. There is approximately 1318 square feet of living area and approximately 270 square feet in the terrace area.

Units 102, 202, 302, 402, 502, 602, 702, 802, 902, 1002, 1102, and 1302 have E-type apartments. All Type E units contain: two bedrooms, two bathrooms, laundry area, one dressing area, kitchen, dining area, living room, foyer and terrace. There is approximately 1020 square feet of living area and approximately 160 square feet in the terrace area.

Units 104, 204, 304, 404, 504, 604, 704, 804, 904, 1004, and 1104 are F-type apartments. All Type F units shall contain: one bedroom, one and one-half bathrooms, one dressing area, laundry area, kitchen, dining area, living room, foyer, and terrace. There is approximately 863 square feet of living area and approximately 160 square feet in terrace area.

Units 106, 206, 306, 406, 506, 606, 706, 806, 906, 1006, 1106, and 1206 are G-type apartments. All Type G units contain: two bedrooms, two bathrooms, laundry area, one dressing area, kitchen, dining area, living room, foyer, and terrace. There is approximately 1318 square feet of living area and approximately 270 square feet in balcony area.

Unit 1303 is an H-type apartment which contains: Two bedrooms, two bathrooms, laundry area, one dressing area, kitchen, dining area, living room, den, foyer, and terrace. There is approximately 1228 square feet of living area and approximately 160 square feet in balcony area.

Unit 1305 is an I-type apartment, and contains: two bedrooms, two bathrooms, laundry area, dressing area, kitchen, dining area, living room, den area, foyer, and two terraces. There is approximately 1547 square feet of living area and approximately 925 square feet in balcony area.

Unit 1304 is a J-type apartment, and contains: two bedrooms, two bathrooms, laundry area, one dressing area, kitchen, dining area, living room, den area, foyer and two terraces. There is approximately 1476 square feet of living area and approximately 925 square feet in balcony area.

Unit 1401 is a K-type apartments, and contains: two bedrooms, two bathrooms, laundry area, one dressing area, kitchen, dining area, living room, den area, foyer and terrace. There is approximately 1353 square feet of living area and 507 square feet in balcony area.

Unit 1403 is an L-type apartment and shall contain: two bedrooms, two and one-half bathrooms, laundry area, one dressing area, kitchen, dining area, living room, den area, foyer and two terraces. There is approximately 1533 square feet of living area and 1257 square feet in the balcony area.

Unit 1402 in an M-type apartment and contains: two bedrooms, two bathrooms, laundry area, kitchen, dining area, living room, den, foyer, and two terraces. There is approximately 1460 square feet of living area and approximately 1257 square feet in the balcony area.

Unit 1501 in an N-type apartment and contains: two bedrooms, two bathrooms, two dressing areas, kitchen, laundry area, dining room, living room, den, foyer, and terrace. There is approximately 1661 square feet of living area and approximately 320 square feet in balcony area.

Unit 1503 in an O-type apartment and contains: two bedrooms, two and one-half bathrooms, laundry area, one dressing area, kitchen,

dining room, living room, foyer, and two terraces. There is approximately 1565 square feet of living area and approximately 486 square feet in balcony area.

Unit 1502 is a P-type apartment and contains: one bedroom and one and one-half bathrooms, laundry area, kitchen, dining room, living room, alcove, foyer, and two terraces. There is approximately 1081 square feet of living area and approximately 486 square feet in the balcony area.

Unit 1202 is a Q-type apartment and contains: two bedrooms, one dressing area, kitchen, dining room, den with bar, foyer, living room, two and one-half baths, laundry area and two terraces. The Q-type apartment shall replace Units E and F on the 12th floor. There shall be approximately 1883 square feet of living area and approximately 320 square feet in the balcony area.

5.3 Unit Boundaries. The respective units shall not be deemed to include the undecorated and/or unfinished surfaces of the perimeter walls, floors and ceiling surrounding each unit or any pipes, wires, conduits or other utility lines running through each unit which are utilized for or serve more than one (1) unit, the same being common elements as hereinafter provided. Each unit shall be bounded as to both horizontal and perimetrical boundaries as below defined, whether the same exist now or are created by construction, settlement or movement of the building, or permissible repairs, reconstruction or alterations. The boundaries shall be determined in the following manner:

(A) Horizontal Boundaries:

(1) Upper Boundary. The underside of the finished undecorated ceiling of the unit, extended to meet the perimetrical boundaries.

(2) Lower Boundary. The upper side of the finished undecorated surface of the floor of the unit, extended to meet the perimetrical boundaries.

(B) Perimetrical Boundaries: The perimetrical boundaries shall be the interior undecorated surfaces of the perimeter walls of the unit and the interior undecorated surfaces of the unit's windows and doors that abut the exterior of the building or Common Areas. Ceiling heights on the lower level shall be eleven feet, four and one-half inches (11' 4-1/2") with the exception of the party room, lounge, and manager's office which shall be eight feet (8'). The ceiling height in floors one through twelve shall be seven feet, eleven and one-half inches (7' 11-1/2"). The ceiling height in floors thirteen, fourteen and fifteen shall be eight feet, eight and one-half inches (8' 8-1/2").

6. CONDOMINIUM PARCELS, APPURTENANCES AND USE:

6.1 Number. The Condominium contains ninety-four (94) units. Each unit shall own an 1/94th undivided share in the ownership of common elements and common surplus.

6.2 Appurtenances to Each Unit. The owner of each unit shall have certain rights and own a certain interest in the condominium property, including, but not limited to, the following items:

A. An undivided share in the land and other common elements as set forth in 6.1 above.

B. Membership in the Association. Membership shall be acquired pursuant to the provisions of the Amended and Restated Articles of Incorporation and the Third Amended and Restated By-Laws of the Association, attached hereto and incorporated herein as Exhibits "A" and "B".

C. The exclusive right to use the limited common elements reserved for that particular unit, and the right to use the common elements.

D. An exclusive easement for the use of the airspace occupied by the unit as it exists at any particular time and as the unit may lawfully be altered or reconstructed from time to time. An easement in airspace which is vacated shall be terminated automatically.

E. Other appurtenances as may be provided in this Declaration and its exhibits.

6.3 Use and Possession. A unit owner is entitled to exclusive use and possession of his unit. He is entitled to use the common elements in accordance with the purpose for which they are intended, but no use may hinder or encroach upon the lawful rights of other unit owners or other persons having rights to use the condominium property, or interfere with the rights of other units to peaceful possession and quiet enjoyment. No unit may be divided or any fractional portion sold or otherwise transferred. The use of any unit's common elements and limited common elements shall be governed by the Declaration of Condominium, By-Laws, Articles of Incorporation, by any Rules and Regulations adopted by the Association, and any amendments or restatements thereto.

7. COMMON ELEMENTS AND EASEMENTS:

7.1 Definition of common elements. The term "common elements" means all portions of the condominium property not included within the units, and includes within its meaning the following:



- A. The land upon which condominium improvements are located.
- B. All portions of the building and other improvements not included within the individual units specifically including, but not limited to, the lobbies, stairwells, entry terraces, social room, exercise room, pool, hot tub, pool decks, walkways, tennis courts, shuffle board courts, driveways, lawns and beach walkway.
- C. Easements through units for conduits, ducts, plumbing, wiring, and other facilities for furnishing utility services to units and the common elements.
- D. An easement of support in every portion of a unit which contributes to the support of the building.
- E. The property and equipment required for furnishing utilities and other services to more than one unit or to the common elements.
- F. Any other parts of the condominium property designated as common elements in this Second Amended and Restated Declaration of Condominium or any recorded exhibit thereto.

7.2 Easements. Each of the following easements and easement rights is reserved through the condominium property and is a covenant running with the land of the condominium, and notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any of the lands of the condominium from the condominium.

A. Utilities. The Association, on its behalf and on the behalf of all unit owners (each of whom hereby appoints the Association as its attorney-in-fact for this purpose), shall have the right to grant such electric, gas, cable television, or other utility or service or other easements, or relocate any existing easements or drainage facilities, in any portion of the Condominium Property, and to grant access easements or relocate any existing access easements in any portion of the Condominium Property, as the Association shall deem necessary or desirable for the proper operation and maintenance of the improvements, or any portion thereof, or for the general health or welfare of the unit owners, or for the purpose of carrying out any provisions of this Declaration of Condominium or otherwise. Such easements or the relocation of existing easements may not prevent or unreasonably interfere with the reasonable use of the units for their intended purposes.

The Association, on behalf of itself and all unit owners (as such owners' attorney-in-fact), shall also have the right to transfer title to utility-related equipment, facilities or materials to any public utility

company or governmental agency which is assuming the obligation to maintain such equipment, facilities or materials. In connection with the foregoing, bills of sale may be granted for items of personal property owned or governed by the Association. Furthermore, the Association shall have the authority to take any other action, on behalf of itself and all unit owners (as such owners' attorney-in-fact), to satisfy the requirements of any public utility company or governmental agency to which any such utility-related equipment, facilities or materials are to be so transferred.

B. Encroachments. In the event that any unit shall encroach upon any of the common elements or upon any other unit for any reason other than the intentional or negligent act of the unit owner, or in the event any common element shall encroach upon any unit, then an easement shall exist to the extent of that encroachment for so long as the encroachment shall exist.

C. Ingress and Egress. A non-exclusive easement in favor of each unit owner and occupant, their respective guests and invitees, shall exist for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portions 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 portions of the common elements as from time to time may be paved and intended for such purposes, and for the purpose of ingress and egress to the public way. None of the easements specified in this subparagraph shall be encumbered by any leasehold or lien other than those on the Condominium Parcels. Any such lien encumbering such easements shall automatically be subordinate to the rights of unit owners with respect to such easements.

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

E. Perpetual Non-Exclusive Easement in Common Elements. The common elements shall be, and the same is hereby declared to be subject to a perpetual non-exclusive easement in favor of all the owners of units in the condominium for their use and the use of their immediate families, guests and invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of said owners.

F. Right of Entry into Private Dwellings in Emergencies. Any agent of the Board shall have to access to each unit in an emergency, regardless of whether or not the owner is present at the time of such emergency, as may be necessary for inspection, maintenance, repair or replacement of any common element therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the common elements or to another unit or units. The owner of each

unit, if requested by the Board of Directors of the Association, shall deposit under the control of the Association, a key to such unit.

G. Right of Entry for Maintenance of Common Property. Whenever it is necessary to enter any unit for the purpose of performing any maintenance, alteration or repair to any portion of the condominium property, the owner of each unit shall permit other owners by their representatives, or the duly constituted and authorized agent of the Association, to enter such unit for such purpose, provided that such entry shall be made only at reasonable times and with reasonable notice in advance.

H. Air Space. An exclusive easement for the use of the air space lawfully occupied by a condominium unit.

I. Easement for Overhangs. An easement for overhanging troughs or gutters, downspouts and the discharge therefrom of rainwater and the subsequent flow thereof over condominium units or any of them.

### 7.3 Restraint Upon Separation and Partition.

A. The undivided share in the common elements appurtenant to a unit shall not be separated from the unit and shall pass with the title to the unit, whether or not separately described.

B. The share of the common elements appurtenant to a unit cannot be conveyed or encumbered except together with the unit and no legal action for partition of the common elements may be brought.

C. A unit's share in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner except as an appurtenance to the unit.

8. THE ASSOCIATION: The operation of the condominium shall be by THE SANDCASTLE II CONDOMINIUM ASSOCIATION, INC., a Florida corporation not-for-profit, which shall perform its functions pursuant to the following:

8.1 Articles of Incorporation. A copy of the Amended and Restated Articles of Incorporation are attached hereto and incorporated herein by reference as Exhibit "A".

8.2 By-Laws. A copy of the Third Amended and Restated By-Laws of the Association are attached hereto and incorporated herein as Exhibit "B".

8.3 Delegation of Management. The Association may contract for the management and maintenance of the condominium property and authorize a management agent or manager to assist the Association in carrying out its powers and duties by performing such

functions which include, but are not limited to, submission of proposals, collection of assessments, preparation of records, enforcement of rules and maintenance and repair of the common elements. The Association and its officers shall, however, retain at all times the powers and duties provided in the Condominium Act, Florida Statute 718 and the Florida Corporation Acts, Florida Statutes 607 and 617.

8.4 Membership. The membership of the Association shall be comprised of owners of the condominium units, as further provided in the Third Amended and Restated By-Laws.

8.5 Acts of the Association. Unless the approval or affirmative vote of the unit owners is specifically made necessary by some provision of the Condominium Act or the condominium documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board of Directors. The officers and Directors of the Association have a fiduciary relationship to the unit owners. A unit owner does not have the authority to act for the Association by reason of being a unit owner.

8.6 Powers and Duties. The powers and duties of the Association include those set forth in the Condominium Act and the condominium documents. The Association may contract, sue, or be sued with respect to the exercise or nonexercise of its powers. For these purposes, the powers of the Association include, but are not limited to, the leasing, repair, replacement, maintenance, management, and operation of the condominium property. The Association may charge a use fee against a unit owner for the exclusive use of the common elements or Association property.

8.7 Fiscal Matters. The Association shall maintain financial records according to good accounting practices. The records shall be open to inspection by unit owners or their authorized representatives at reasonable hours in accordance with the mandates of Section 718, Florida Statutes, the Condominium Act, and copies of the Association's financial reports shall be supplied at least annually to unit owners or the authorized representatives as provided by these By-Laws. The records shall include, but are not necessarily limited to the following:

A. A record of all receipts and expenditures.

B. An account for each unit designating the name and current mailing address of the unit owner, the amount of each assessment, the dates and amounts in which assessments come due, the amounts paid on account, and the balance due.

8.8 Purchase of Units. The Association has the power to purchase units in the condominium and to acquire and hold, lease, mortgage, and convey them, subject to the approval of a majority of the Board of Directors.

8.9 Official Records. The Association shall maintain a copy of each of the following, which shall constitute the official records of the Association:

A. The plans, permits, warranties, and other items provided by the Developer pursuant to Florida Statute 718.301(4).

B. A photocopy of the Third Amended and Restated Declaration of Condominium operated by the Association and all amendments thereto.

C. A photocopy of the recorded Third Amended and Restated By-Laws of the Association and all subsequent amendments thereto.

D. A photocopy of the recorded Amended Articles of Incorporation of the Association and all subsequent amendments thereto.

E. A copy of the current rules and regulations of the Association.

F. The minutes of all meetings of the Association and of the Board of Directors for a period of seven years.

G. A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers. The Association shall also maintain the electronic mailing addresses and the numbers designated by unit owners for receiving notice sent by electronic transmission of those unit owners consenting to receive notice by electronic transmission. The electronic mailing addresses and numbers provided by unit owners to receive notice by electronic transmission shall be removed from Association records when consent to receive notice by electronic transmission is revoked. However, the Association is not liable for an erroneous disclosure of the electronic mail address or the number for receiving electronic transmission of notices.

H. All current insurance policies of the Association.

I. A current copy of any management agreement, lease or other contract to which the Association is a party or under which the Association or the unit owners have an obligation or responsibility.

J. Bills of Sale or transfer of all property owned by the Association.

K. Ballots, sign-in sheets, voting proxies, and all other papers relating to voting by unit owners for one year from the date of use.

L. Accounting records for the Association. All accounting records shall be maintained for a period of not less than 7 years. The accounting records shall include, but are not limited to:

1. Accurate, itemized, and detailed records of all receipts and expenditures.
  2. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid upon the account, and the balance due.
  3. All audits, reviews, accounting statements, and financial reports of the association or condominium.
  4. All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of 1 year.
- M. A copy of the current question and answer sheet as described by s. 718.504.

N. All other records of the Association not specifically included in the foregoing which are related to the operation of the Association.

These records shall be made available to a unit owner within five (5) working days after receipt of written request to the Board or its designee, and shall otherwise be open to inspection by any member or their authorized representatives at all reasonable times. The right to inspect the records includes a right to make or obtain photocopies at the reasonable expense of the members seeking copies.

The Association or its authorized agent is not required to provide a prospective purchaser or lienholder with information about the Condominium or the Association other than information or documents required by Florida Statutes Chapter 718 to be made available or disclosed. The Association or its authorized agent may charge a reasonable fee to the prospective purchaser, lienholder, or the current unit owner for providing good faith responses to requests for information by or on behalf of a prospective purchaser or lienholder, other than that required by law, if the fee does not exceed \$150. plus the reasonable cost of photocopying and any attorney's fees incurred by the Association in connection with the response.

## 9. LIMITED COMMON ELEMENTS:

9.1 Description of Limited Common Elements. Certain common elements have been designated as limited common elements, reserved for the particular unit or units, to the exclusion of the other units. The limited common elements and the units to which their use has been designated are as described in this Second Amended and Restated Declaration and as further identified on the survey and plot plans attached hereto as Exhibits "C" and "D" respectively and incorporated herein by reference. The following common elements are hereby designated as limited common elements.

A. Storage Closets. Certain storage closets are shown on the survey and plot plan as limited common elements. Each closet has

been assigned for the exclusive use of a certain unit as identified on the survey and plot plan. No unit may be assigned or acquire the use of more than one closet. The exterior surfaces of the closets will be maintained by the Association and the cost shall be a common expense.

B. Parking Spaces. There have been designated, on the attached survey and plot plan, certain parking spaces as limited common elements. These parking spaces have been assigned to the exclusive use of specific units. Each unit shall have the exclusive right to use the one parking space assigned to it. The cost of maintenance of all parking spaces shall be a common expense.

C. Air Conditioning and Heating Equipment. All equipment, fixtures and installations located outside of a unit, which furnish air conditioning or heating exclusively to that unit, shall be limited common elements, and shall be maintained, repaired and replaced solely at the expense of the owner of the unit.

D. Balconies and Terraces. Any balcony or terrace attached to and serving exclusively a unit shall be a limited common element. The unit owner shall be responsible for day-to-day cleaning and care, but all painting and maintenance shall be the responsibility of the Association and shall be a common expense.

E. Others. Any part of the common elements that is connected to or exclusively serves a single unit, and is specifically required in Section 11 of this Second Amended and Restated Declaration to be maintained, repaired or replaced by or at the expense of the unit owner, shall be deemed a limited common element appurtenant to that unit, whether specifically described above or not. This paragraph includes windows, screens and doors, including all hardware and framing therefor.

9.2 Exclusive Use; Transfer of Use Rights. The exclusive use of a limited common element is an appurtenance to the unit or units to which it is designated or assigned. If the exclusive use of any assignable limited common element was not, for any reason, assigned to the use of a specific unit or units by the Developer, the Association may do so. The right of exclusive use to each limited common element passes with the unit, whether or not separately described, and cannot be separated from it; except that the use right to a particular parking place or storage locker may be temporarily exchanged between units by agreement of the owners of the units involved.

10. ASSESSMENTS AND LIENS: The Association has the power to make and collect assessments against each unit and unit owner in order to provide the necessary funds for proper operation and management of the condominium and for the operation of the Association. The power of the Association to make and collect assessments includes regular assessments for each unit's share of the common expenses, and special

charges against any individual unit for any amounts, other than for common expenses, which are properly chargeable against such unit under this Declaration of Condominium or the Association's By-Laws. Such assessments shall be made and enforced as provided by Florida law and as follows:

10.1 Common Expenses. Common expenses include the expenses of the operation, maintenance, repair and replacement of the common elements, the expenses of operating the Association and any other expenses properly incurred by the Association for the Condominium, including any amounts budgeted for the purpose of funding reserve accounts and special assessments authorized by the Board of Directors of THE SANDCASTLE II CONDOMINIUM ASSOCIATION, INC. The cost of water and sewer service to the units shall be a common expense. If the Board of Directors determines that purchasing cable or satellite television programming in bulk for the entire condominium is in the best interest of the owners, the cost of such service shall be a common expense.

10.2 Share of Common Expenses. Each unit owner shall be liable for his pro rata share of the common expenses, and shall share in the common surplus, in the same proportion. Such right shall not vest or create in any unit owner the right to withdraw or receive distribution of his share of the common surplus, except as otherwise provided herein.

10.3 Ownership. Assessments collected by the Association become the property of the Association. No unit owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his unit.

10.4 Liability for Assessment. The owner of each unit, regardless of how title was acquired, is liable for all assessments coming due while he is the owner. Multiple owners are jointly and severally liable. Whenever title to a unit is transferred for any reason, including but not limited to the transfer of interest by and between multiple owners, the transferee is jointly and severally liable with the previous owner for all unpaid assessments against the previous owner, without prejudice to any right the transferee might have to recover from the transferor any amounts paid by the transferee.

10.5 No Waiver. The liability for assessment may not be avoided by waiver of the use or enjoyment of any common elements or by abandonment of the unit for which an assessment is made.

10.6 Excuse from Payment. No unit owner may be excused from payment of his share of the common expenses unless all unit owners are likewise proportionately excused from payment, except as provided for under section 10.15 Mortgage Foreclosure or as otherwise stipulated by Florida law.

10.7 Certificate as to Assessments. Any owner shall have the right to acquire from the Association a certificate showing the amount of



unpaid assessments against him with respect to his condominium parcel. The holder of a mortgage or other lien shall have the same right as to any condominium parcel upon which he has a lien.

10.8 Application of Payments; Failure to Pay; Interest. Assessments and installments thereon paid on or before ten (10) days after the date due shall not bear interest, but all sums not so paid shall bear interest at the rate authorized by the Board and allowed by law, calculated from the date due until paid. Assessments and installments thereon shall become due, and the unit owner shall become liable for said assessments or installments, on the date established in the By-Laws or otherwise set by the Association for payment. All payments on account shall be applied to interest, late fees, court costs and attorney's fees, other charges, and regular or special assessments, in the order in which they come due. The Association may refuse to accept a partial payment which bears a restrictive endorsement and such will be the equivalent of no payment. The Association reserves the right to engage collection agencies and attorneys to collect any balances more than 30 days delinquent.

10.9 Acceleration. No payment by check is deemed received until the check is cleared. If any special assessment or regular installment as to a unit becomes more than thirty (30) days past due, the Association shall have the right to accelerate the due date of the entire unpaid balance of the unit's annual assessment for that fiscal year. The due date for all accelerated amounts shall be the date the Claim of Lien was recorded in the public records. The Association's Claim of Lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, attorney's fees and costs as provided by law; and said Claim of Lien shall not be satisfied or released until all sums secured by it have been paid. The right to accelerate shall be exercised by sending to the delinquent owner a notice of the exercise, which notice shall be sent by certified or registered mail to the owner's last known address, and shall be deemed given upon mailing of the notice by regular United States Mail. The notice may be given as part of the notice of intent to foreclose, as required by Section 718.116 of the Condominium Act, or may be sent separately.

10.10 Liens. The Association shall have a lien on each condominium parcel for any unpaid assessments, including interest, all attorney's fees incurred by the Association incident to the collection of the assessment or enforcement of the lien and all costs, including but not limited to postage cost, long distance and local telephone costs, lien search fees, recording fees and court costs. The lien is effective after recording a Claim of Lien in the Public Records of Collier County, Florida, stating the legal description of the condominium parcel, the name of the record owner, the amount due and due dates. The lien is in effect until barred by law. The Claim of Lien includes assessments which are due when the Claim is recorded, as well as all assessment which become due subsequent to the filing of said Lien. Upon full payment, including the payment of all attorney's fees, interest, costs and all attorney's fees and costs incident to the preparation and recording of a satisfaction of lien, the person making the payment is entitled to a Satisfaction of Lien.

10.11 Priority of Lien. The Association's lien for unpaid assessments shall be subordinate and inferior to any recorded institutional mortgage, unless the Association's Claim of Lien was recorded prior to the mortgage, but shall be superior to, and take priority over, any other mortgage. Any lease of unit shall be subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed.

10.12 Assignment of Claim by Association. The Association has the right to assign its lien rights for recovery of unpaid assessments to another unit owner, a group of unit owners or a third party with or without prior notice to the delinquent owner.

10.13 Foreclosure. The Association may bring an action in its name to foreclose a lien for unpaid assessments in the manner provided in the Condominium Act, Section 718, Florida Statutes, and may also bring an action to recover a money judgment for the unpaid assessment without waiving any right to foreclose. If the unit owner remains in possession of the unit and the Claim of Lien is foreclosed, the court, in its discretion, may require the unit owner to pay a reasonable rental for the unit, for the period of time between the entry of a foreclosure judgment and the time of the foreclosure sale, and the Association is entitled to the appointment of a receiver to collect the rent. Alternatively, the Association shall be entitled to all possessory rights provided by Florida Law.

10.14 Transfer of Ownership of Foreclosed Unit. If a foreclosure action is brought against the owner of a condominium parcel and the interest of the owner in the condominium parcel is sold, the condominium owner's membership shall be canceled and a membership shall be issued to the purchaser at the foreclosure sale.

10.15 Mortgage Foreclosure. A first mortgagee whose mortgage was recorded on or after April 1, 1992 who acquires title to the unit by foreclosure or by deed in lieu of foreclosure is liable for unpaid assessments that become due prior to the mortgagee's receipt of the deed, provided, however, in no event shall the mortgagee's liability exceed the sums due for the period of six months immediately preceding the transfer, or 1% of the original mortgage debt, whichever is less. Any other purchaser of a condominium unit who acquires title to a condominium parcel as a result of foreclosure of the mortgage, or as the result of a deed given in lieu of foreclosure, such acquirer of title and his successors and assigns are liable for the share of common expenses or assessments pertaining to the condominium parcel or chargeable to the former owner of the parcel coming due prior to acquisition of title as a result of the foreclosure, unless otherwise exempt from liability under Florida law. The unpaid share of the common expenses is collectable from all of the unit owners, including such acquirer and his successors and assigns. A first mortgagee acquiring title to a condominium parcel as a result of foreclosure, or a deed in lieu of foreclosure, may not, during the period of its ownership of such parcel, whether or not such parcel is

unoccupied, be excused from payment of any common expenses due during the period of such ownership.

10.16 Assessment Certificate. The Association shall provide a certificate stating whether all assessments and other monies owner to the Association by the unit owner with respect to the condominium parcel have been paid within fifteen (15) days after request by unit owner or mortgagee.

11. MAINTENANCE AND LIMITATION UPON IMPROVEMENT:  
Responsibility for the maintenance of the condominium property and restriction on its alteration and improvements shall be as follows:

11.1 Units.

A. By the Association. The Association shall maintain, repair and replace at the Association's expense only such portions of the unit as contribute to the support of the building, including but not limited to the perimeter walls, columns, roof and floors, as well as wiring, piping, ductwork and other mechanical or electrical or other installations or equipment serving the common elements or more than one unit, all limited common elements not elsewhere required to be maintained by the unit owners, and all the common elements. Each unit owner shall at his expense provide routine maintenance and repair to the interior of his front door, including handles, locks, cylinders, door closers, hinges and bolts, and the Association shall provide at its expense routine painting, maintenance and repair to the exterior of the front doors and the door frames and any exterior weather stripping and door sweeps of all of the units, and shall be responsible for replacement of the front doors when necessary.

The foregoing notwithstanding, if any such maintenance, repair or replacement shall be made necessary because of the negligent act or omission of a unit owner, his family, invitees or guests, then the work shall be done by the Association, with the expense to be paid by the unit owner and the Association shall have a lien against the unit for said cost.

(2)The Association, as part of the Post Storm Recovery Plan (adopted and revised by the Board) shall have the ability, but not the obligation, to take whatever actions are necessary to remove water from units to prevent mold and mildew contamination, and to mitigate any other hazards within units that have been damaged by catastrophic windstorms. Unit owners shall be liable for the costs of such remedial activities when such activities cannot be completed by internal staff or the unit owner within the time frames specified in the Post Storm Recovery Plan.

B. By the Unit Owner. The responsibilities of the unit owner shall be as follows:

(1) Each owner shall be responsible at his expense, for all maintenance, repairs and replacements of his own unit, and of such portions of the plumbing, heating and air conditioning equipment including any other facilities or fixtures as are located within his own unit or which service only his unit; provided, however, that any insurance proceeds payment to the Association with respect to any loss or damage to the fixtures within the unit which are covered by the Association's insurance provided for in this Declaration, and which loss would otherwise be borne by the unit owner, shall be paid to such unit owner, less an deductible required by the insurance policy. Specifically included under owner responsibility are unit main water shut-off valves, pressure reduction valves (if any), all water piping and valves on the owner side of the main shut-off valve, heat exchanger inlet and outlet valves and connection hoses. Also included are exterior screens installed on any doors.

(2) Each unit owner shall be responsible for all decorating within his own unit, including painting, wallpapering, paneling, floor covering, draperies, window shades, curtains, lamps and other light fixtures and other furnishings and interior decorating.

(3) No unit owner shall paint, decorate or change the appearance of any exterior portion of the building or the common elements, unless the prior written consent of the Association is first obtained.

(4) The covering and appearance of windows and doors, whether by draperies, shades or other items visible from the exterior of the unit, shall be subject to regulation by the Association.

(5) A unit owner shall not make any changes in his unit which would add to or remove any part of the common elements or do anything that would adversely affect the safety or soundness of any portion of the condominium property.

(6) A unit owner shall maintain and keep in neat and trim condition the floor and interior walls.

(7) Any officer of the Association or any agent of the Board shall have the irrevocable right to have access to each unit from time to time during reasonable hours as may be necessary for inspection, maintenance, repair or replacement of any common element therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the common elements or to another unit or units.

(8) The unit owner shall be responsible for the day to day maintenance of the exterior windows and sliding glass doors of the unit, including repair or replacement of locks, handles, door rollers and screens. Repairs to or replacement of the exterior windows or sliding glass doors shall be the responsibility of the Association, provided, however, should the replacement or repairs be necessitated due to the negligent act or omission of the unit owner, his guests, tenants, invitees or

family, then the cost shall be borne by the unit owner, and the Association shall have a lien against the unit for the cost of repair and/or replacement.

(9) Each unit owner shall be responsible for maintaining and replacing (if necessary or when desired) any ceramic tile and grout or other suitable deck covering (as expressly approved by the Board) on individual exterior balconies. The Association shall remain responsible for any concrete repairs, mandatory waterproofing and painting necessary to preserve the structural integrity and appearance of the balconies. The Association shall not be responsible for incidental damage caused to a unit or limited common elements by work performed or ordered to be performed by the Association. The Association shall not be responsible for the damage to any modification, installation, alteration or addition made by unit owners.

11.2 Common Elements. The maintenance of the common elements is the responsibility of the Association and is a common expense. There shall be no material alteration of, or substantial additions to the common elements except in accordance with the following: The Board of Directors may not authorize or make any additions or capital improvements to the Condominium Property at a cost in excess of Ten Thousand Dollars (\$10,000.00) without obtaining a sixty-six and two-thirds percent (66 2/3%) vote in favor of such additions or improvements by all those voting interests present, in person or by proxy, at a meeting called for the purpose of considering said additions or improvements, excepting that in cases of emergency only, and in order to protect the Condominium Property, the Board of Directors may, in their sound judgment, make repairs to the Condominium Property in excess of said Ten Thousand Dollars (\$10,000.00).

A. Land Acquisition. Land acquired by the Association may be added to the land submitted to condominium ownership hereby. This may be done by an amendment to this Second Amended and Restated Declaration that includes the description of the acquired land and which submits the said land to condominium ownership under the terms of this Second Amended and Restated Declaration. The amendment shall be executed by the Association and adopted by the unit owners in the manner elsewhere required. Such amendment, when recorded in the Public Records of Collier County, Florida, shall divest the Association of title to the land and shall state that it conveys all interest of the Association to and vests the title in the unit owners, without naming them and without further conveyance, in the same undivided shares as the undivided shares in the common elements appurtenant to the units owned by them.

B. Land Not Incorporated. Any land acquired by the Association that is not incorporated into the condominium by amendment to this Second Amended and Restated Declaration, may be sold or mortgaged or otherwise disposed of by the Association after approval in writing by the record unit owners of not less than seventy-five percent (75%) of the Common elements. This approval shall be evidenced by a certificate stating that the approval was duly given, which certificate

shall be executed by the officers of the Association with the formalities of a deed and delivered to a purchaser or mortgagee of such land.

C. Personal Property. Any personal property acquired by the Association may be sold or mortgaged or otherwise disposed of by the Association.

11.3 Appliance Maintenance Contracts. If there shall become available to the Association a program of contract maintenance for kitchen appliances or water heaters within units and/or air-conditioning compressors and/or air handlers serving individual units, which the Association determines is to the benefit of the owners to consider, then upon agreement by seventy-five percent (75%) of the voting interest present and voting, in person or by proxy, at a meeting of the members, said program of contract maintenance shall become a common expense. All maintenance, repairs and replacements not covered by the contracts shall be the responsibility of the unit owner.

11.4 Alteration to Units and Limited Common Elements by Unit Owners. No owner shall make or permit the making of any material alterations or substantial additions to his unit or the limited common elements, or in any manner change the exterior appearance of any portion of the Condominium, without first obtaining the written consent of the Board of Directors, which consent shall be denied if the Board of Directors determines that the proposed modifications or alterations would adversely affect, or in any way be detrimental to, the Condominium in part or in whole. If any unit owner requests approval of modification or an alteration involving the removal of any interior partition wall, the Association may permit such removal if the removal would not materially affect or interfere with the utility services constituting common elements, if any, located therein. Any glass, screen, curtain, blind, shutter, awning, or other similar structure which may be installed where visible from outside the unit is subject to regulation by the Association. No owner may alter the landscaping of the common elements in any way without prior approval of the Association.

Owners may install hurricane shutters on their units both flush against their doors and windows, and at the perimeter of their balconies. Shutter installation is subject to the expressed, written approval of the Board of Directors or the Board's designee, in advance of any installation and according to all standards, procedures and specifications adopted by the Board including:

- A. All shutters must meet or exceed Dade County, Collier County or State of Florida specifications in effect at the time of installation, whichever are most stringent.
- B. All shutters must be installed by a Florida licensed contractor according to the standards set forth by all applicable regulating agencies as well as the standards and procedures adopted by the Board of Directors.
- C. All window shutters will be electric, motorized roll-down shutters that are "bronze" in color. (Exception: The small vent windows

- on the east-facing walls of '06 and '07 units may be any style of shutter, but must be bronze.)
- D. Shutters installed flush against sliding glass doors or fixed glass door panels, may be roll-down or accordion shutters, and must be "bronze" in color.
  - E. Shutters installed at the outside perimeter of any balcony, or at any location other than flush against the glass on 13<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> floor terraces, must be accordion shutters, and must be color matched to the exterior building color as provided in the standards and procedures adopted by the Board.
  - F. Appropriate storm panel shutters may be installed on exterior walkway entry and utility room doors. Any such shutters must match the exterior building color.
  - G. The operation of and all maintenance, including re-painting, cleaning, lubricating and repairing of shutters, is the responsibility of the unit owner.

Owners may, at their own cost and expense, replace either their sliding glass doors or windows, or both, with impact and wind resistant units that meet or exceed all applicable building and fire codes and are installed in compliance with any standards and specifications adopted by the Board. Replacement units must be "bronze" in exterior color and must essentially match the original configurations according to the original Sandcastle II construction plans. Replacement of doors and windows requires the expressed, written approval of the Board of Directors or the Board's designee in advance of any installation.

11.5 Enforcement of Maintenance. If the owner of a unit fails to maintain any unit as required above, the Association shall have the right to institute legal proceedings to enforce compliance, or may take any and all other steps necessary to remedy such violation, including but not limited to entering the unit, with or without consent of the unit owner, and may repair, replace, or maintain any item which constitutes a hazard to other condominium property and residents. Any expenses so incurred by the Association shall be assessed against the unit owner, together with reasonable attorney's fees and other expenses of enforcement.

11.6 Negligence. Each unit owner shall be personally liable for the expenses of any maintenance, repair or replacement made necessary by his negligence, act or omission, or by that of any member of his family or his guests, invitees, employees, agents or lessees, but unless the negligence is of such character as to evidence gross recklessness or willful or wanton disregard for life or property, the unit owner shall be liable only to the extent that such expense is not met by the proceeds of insurance carried by the Association. The amount for which the unit owner is deemed liable shall be recovered by an assessment against his unit.

12. USE RESTRICTIONS: The use of units shall be in accordance with the following provisions for as long as the condominium shall exist:

12.1 Units. Each unit shall be used only for residential purposes as a single family private dwelling for the unit owner and the members of his family, or for the unit owner's guests and lessees. No industry, business, trade, occupation or profession of any kind, commercial, religious, education, or otherwise, designated for profit, altruism, exploration, or otherwise, shall be conducted, maintained, or permitted in any unit.

12.2 Occupancy in Absence of Owner. When the unit has not been leased, a unit owner may permit his unit to be occupied in his absence by his guests, but only in accordance with the following provision:

A. No guest shall, at any time, be permitted to infringe upon the rights and privileges of any resident or be excused from complying with any and all House Rules and Regulations, as may be promulgated from time to time by the Board of Directors.

B. To assure that units and common elements of the Condominium are used only by guests who have been duly authorized to use a unit by its owner(s), the owner of record shall inform in advance the manager of the Condominium in writing or by telephone, of the name of the guest(s) who has been authorized to use the unit.

C. Unit owners shall not utilize Section 12.2.A. for the purposes of circumventing the Association's requirement that leases shall be for a minimum term of thirty (30) days or one calendar month. Should any unit owner utilize Section 12.2.A. for the primary purpose of circumventing said thirty (30) day / one month minimum lease provision, said unit owner shall be subject to a fine as provided for by the Association By-Laws and shall be liable for all attorney's fees and costs incurred by the Association in enforcing this provision, together with any other remedies available to the Association under Florida law.

D. Parents, children, brothers, sisters and grandchildren of unit owners and spouses or primary occupants are exempt from the following guest occupancy restrictions. In addition, while an owner or primary occupant is in residence, they are not restricted from having their guests visit. However, guest occupancy while an owner or primary occupant is not in residence, is limited to one group of guests per four week period with a maximum of twelve (12) guest occupancies per year.

12.3 Maximum Occupancy. No more than six persons total shall ever occupy any two bedroom unit and no more than four persons total shall ever occupy any one bedroom unit.

12.4 Pets. Owners may keep small domesticated pets (dogs or cats - a maximum of one each), provided they are not kept, bred or maintained for any commercial purpose in their unit. All four-legged pets shall be kept on a leash while outside any owner's unit. The ability to keep a pet is a privilege, not a right. In the event that any pet on the premises should constitute a nuisance in the opinion of a majority of the Board of Directors, then the owner, when so notified in writing, shall be required to immediately remove said pet from the premises. No pets of



any kind are permitted in leased units. No pets shall exceed 25 pounds in weight nor 18 inches in height. Pets must be hand held by unit owners when inside elevators at all times and must be walked in appropriate areas. Owners are obligated to clean the areas soiled by their pets.

12.5 Nuisances. No nuisances shall be allowed to exist upon the condominium property. No use or practice which becomes a source of annoyance to residents shall be allowed. All areas of the condominium property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate, nor shall any fire hazard be allowed to exist. The use of each unit shall be consistent with existing laws and the condominium property. No business may be carried on in or from any unit.

12.6 Maintenance and Appearance. Each owner shall maintain his unit and all fixtures and appliances located therein in good condition and repair at all times. Any glass, screen, curtain, blind, shutter or awning which may be installed on any porch or balcony is subject to regulation by the Board of Directors. Each owner is prohibited from painting or otherwise decorating or changing the appearance of any portion of the exterior of his unit or the building except with permission of the Board of Directors. The installation of any appliance or addition to the exterior of the building, including but not limited to radio and television antennae, must be approved by the Board of Directors.

12.7 Common Areas. Common hallways, stairways and other common areas shall not be obstructed, littered, defaced or misused in any manner. No signs are permitted unless first approved in writing by the Board of Directors. Balconies, walkways and stairways shall be used only for the purpose intended, and they shall not be used for hanging garments or other objects, for cleaning of rugs or other household items, or for storage of bicycles or other implements.

12.8 Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the condominium property or any part thereof; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair of the condominium property shall be the same as the responsibility for the maintenance and repair of the property concerned.

12.9 Signs. No signs shall be displayed from a unit or on common elements except such signs as shall have advance written approval by the Association. Under no circumstances may any unit owner or cause another to post or display any signs anywhere on the condominium property, including "For Sale", "For Rent", "Open House" or other similar signs.

12.10 Minors. All occupants under eighteen (18) years of age shall be closely supervised at all times by an adult to ensure that they comply with the Association Rules and Regulations.

12.11 Rules and Regulations. Reasonable rules and regulation concerning the use of the condominium property may be made and amended from time to time by the Board of Directors.

12.12 Motor Vehicles and Boats. Except for required deliveries, no unit owner shall park or permit to be parked either on a lot or upon any common element or Association property, any vehicle designed or used for commercial purposes or containing exterior advertising matter; any swamp buggy, stock car, or other vehicle not normally used for highway travel; or any boat, motorcycle, trailer, recreational vehicle, or camper.

12.13 Flags. Any unit owner may display one portable, removable United States flag in a respectful way and, on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day, may display in a respectful way portable, removable official flags, not larger than 4½ feet by 6 feet, that represent the United States Army, Navy, Air Force, Marine Corps, or Coast Guard.

### 13. FORMS OF OWNERSHIP:

13.1 Individual Owner. A unit may be owned by an individual person who has qualified and been approved as elsewhere provided herein.

13.2 Co-Ownership. Co-ownership of units may be permitted, but shall be limited to tenancy by the entirety, tenancy in common, or joint tenancy with the right of ownership on survival. Unless an exception is specifically approved by the Board of Directors, all owners shall be members of a single family. If co-ownership is to be by more than two persons, the Board may condition its approval upon occupancy only by one approved individual as "primary occupant", and the use of the unit by other persons shall be as if the primary occupant was the only actual owner. Any change in the primary occupant shall be treated as a transfer of ownership subject to all the provisions of Section 13 herein.

13.3 Ownership by Corporations or Trusts. A unit may be owned by a trustee, or by a corporation, or other entity which is not a natural person, if approved in the manner provided for other transfers of title. However, the intent of this provision is to allow flexibility in estate or tax planning, and not create circumstances in which the unit may be used as short term transient accommodations for several individuals or families. The approval of a corporation or trust as a unit owner shall be conditioned upon designation of one natural person to be the primary occupant, and the use of the unit by other persons shall be as if the primary occupant was the actual owner. Any change in the primary occupant shall be treated as a transfer of ownership. No more than one such change will be approved in any twelve month period.

13.4 Life Estate. A unit may become subject to a life estate, either by operation of law or by approved voluntary conveyance. 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 was the only owner. Upon termination of the life estate, the holder of the remainder interest shall have no occupancy rights unless separately approved by the Association. The life tenant and the remaindermen shall be jointly and severally liable for all assessments and charges against the unit. The life tenant may, by signed agreement, transfer the right to vote in all Association matters to any one remainderman, subject to approval by the Association of such arrangement. Whenever the consent or joinder of the owner of such unit is required, such consent or joinder shall be effective only if signed by the life tenant.

#### 14. TRANSFER:

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

14.2 Devise or Inheritance. If a unit owner shall acquire 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 of the Association. The approval of the Association shall not be denied to any transferee or vendee who, at the time of such transfer, is or was (if the transfer results from the owner's death) the owner's lawful spouse or related to the owner by blood or adoption within the first degree.

14.3 Other Transfers. If any unit owner shall acquire his title in any manner not considered in the foregoing subsections, the continuance of his ownership of his unit shall be subject to the approval of the Board of Directors of the Association under the procedures outlined in Section 14.5 below.

14.4 Ad Hoc Committee. To facilitate transfer proposed during times when many of the members are not in residence, the Board of Directors may by resolution delegate its approval powers to an ad hoc committee, which shall consist of at least three members. The Chairman of the committee shall be deemed a Vice-President, and as such shall be empowered to execute Certificates of Approval on behalf of the Association.

#### 14.5 Procedures.

##### A. Notice to Association.

(1) Sale or Gift. An owner intending to make a sale or gift of his unit or any interest therein shall give to the Board of Directors, the Association Manager or Board of Directors designee written notice of such intention at least thirty (30) days prior to the date of the proposed transfer, together with a copy of the proposed sales contract, if any, and such other information as the Board may reasonably require. The Board

may require a personal interview of any purchaser and his spouse, if any, as a condition of approval.

(2) Devise, Inheritance or Other Transfer. The transferee must notify the Association of his ownership and submit to the Association a certified copy of the instrument evidencing his ownership and such other information as the Board may reasonably require. The transferee shall have no occupancy right unless approved by the Board, but may sell or lease the unit following the procedures provided in this Section and in Section 15 herein.

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

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

B. Transfer Fee. The Board of Directors shall charge a nonrefundable fee for the approval of transfer not to exceed the maximum amount allowable under Florida law. Such fee shall be paid by the transferor at the time notice is given to the Association.

C. Action on Notice. Within thirty (30) days after the required notice and all information or appearances requested, whichever occurs last, the Board shall approve or disapprove the transfer. If a transfer is approved, the approval shall be stated in a Certificate of Approval executed by the President of the Association in recordable form and delivered to the transferee. If the Board neither approves nor disapproves within thirty (30) days, such failure to act shall be deemed the equivalent of approval, and upon demand, the Board of Directors shall issue a Certificate of Approval to the transferee.

D. Disapproval.

(1) Approval of the Association shall be withheld only if a majority of the entire Board of Directors so votes, and only if the Board finds that one or more of the following exist:

(a) The purchaser for whom approval is sought has been convicted of a felony involving violence to persons or property, or a felony demonstrating dishonesty or moral turpitude;

(b) The purchaser for whom approval is sought has a record of financial irresponsibility, including without limitation prior bankruptcies, foreclosures or bad debts;

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

(d) The purchaser for whom approval is sought has a history of disruptive behavior or disregard for the rights or property of others;

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

(f) The purchaser for whom approval is sought has failed to provide the information, fees or appearances required to process the application in a timely manner, or provided false information during the application process.

(2) If the Board disapproves a prospective purchaser, the Association shall have the optional right of first refusal to purchase the unit on the same terms and conditions as the offer of the disapproved purchaser. The right shall expire thirty (30) days after notice of disapproval is given. The closing shall take place within thirty (30) days of the Board's written notice to the owner of its intent to exercise the right to purchase.

(3) If the Board disapproves one prospective purchaser and does not exercise its right of first refusal, the owner may submit, within 120 days, notice to the Board of a second bona fide purchase agreement with a person who is unrelated to the prior disapproved purchaser. With such notice, the owner shall submit an executed copy of the purchase agreement and make written demand that the Board either accept the purchaser or supply another purchaser who has been approved. If the owner makes such demand, and if Board disapproves the second prospective purchaser, then within sixty (60) days after giving notice of such disapproval to the owner, the Board shall submit an offer by an approved purchaser to buy the unit on the same terms and conditions in the second purchase agreement, unless the selling price is reasonably questioned as being bona fide, in which event the price to be offered shall be determined by taking the average price established by two Collier County appraisers familiar with current condominium prices in Collier County, one appraiser to be selected by the selling owner and the other selected by the Board. The costs of the

appraisals shall be shared equally by the owner and the Association. Closing and transfer of the unit shall be within thirty (30) days from the submission of the agreement to purchase by the Association or ten (10) days after the price is determined as provided, whichever occurs later.

(4) If the Board fails to submit an offer to purchase by an approved purchaser within sixty (60) days after giving notice of disapproval to the owner, then the second purchaser shall be deemed to be approved, despite the Board's former disapproval, and upon demand a Certificate of Approval shall be issued.

14.6 Exception. The above provisions are not applicable to the acquisition of title by an institutional mortgagee or other approved mortgagee who acquires title through the mortgagee, whether by foreclosure or deed in lieu of foreclosure.

14.7 Unapproved Transfers. Any transfer which is not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved in writing by the Board.

15. LEASING OF UNITS: The control by the Association of the right of occupancy extends to all occupants of units. A lease must be in writing. A unit owner may lease only his entire unit and then only in accordance with this section, after obtaining approval of the Association. The lessee must be one natural person. A unit owner may lease only his entire unit, and then only in accordance with the following provisions:

15.1 Procedures.

A. Notice. An owner intending to make a lease of his unit shall give to the Board of Directors or its designee written notice of such intention at least twenty (20) days prior to the proposed transaction, together with a copy of the proposed lease, the name and address of the proposed lessee, the number of intended occupants, and such other information as the Board or its designee may reasonably require.

B. Approval. After the required notice and all information and appearances requested have been provided, the Board or its designee shall approve or disapprove the proposed lease within ten (10) days and shall provide written notice of such approval to the owner. If the Board or its designee neither approves nor disapproves within the time stated above, such failure to act is deemed the equivalent of approval, and upon demand the Board shall issue written notice of approval to the owner.

C. Disapproval. Approval of the Association shall be withheld if a majority of the whole Board so votes, or if the Board designee so states and in such cases the lease shall not be made. Appropriate grounds for disapproval shall include, but not be limited to, the following:

(1) The unit owner is delinquent in the payment of assessments at the time the application is considered,

(2) The unit owner has a history of leasing his unit to troublesome lessees and/or refusing to control or accept responsibility for the occupancy of his unit,

(3) The real estate company or rental agent handling the leasing transaction on behalf of the unit owner has a history of screening lessee applicants inadequately or recommending undesirable lessees,

(4) The application on its face indicates that the person seeking approval intends to conduct himself in a manner inconsistent with the covenants and restrictions including but not limited to all rules and regulations applicable to the Condominium,

(5) The prospective lessee has been convicted of a felony involving violence to persons or property, or a felony demonstrating dishonesty or moral turpitude,

(6) The prospective lessee has a history of conduct which evidences disregard for the rights and property of others,

(7) The prospective lessee evidences a strong probability of financial irresponsibility,

(8) The lessee, during previous occupancy, has evidenced an attitude of disregard for the Association rules,

(9) The prospective lessee gives false or incomplete information to the Board as part of the application procedure, or the required transfer fees, and/or security deposit is not paid,

(10) The owner fails to give proper notice of his intention to lease his unit to the Board of Directors,

(11) The lease application demonstrates that a two bedroom unit shall be occupied by greater than six (6) persons or a one (1) bedroom unit shall be occupied by more than four (4) persons,

(12) A prospective lessee intends to permit guests to utilize the common elements or the Association pool, or,

(13) A prospective lessee intends to occupy any unit for less than thirty (30) days or one calendar month, whichever is less.

Notice of disapproval shall be sent or delivered to the unit owner.

(D) Failure to Give Notice. If proper notice is not given, the Board of Directors, the Association, or its designee, at its or his election, may approve or disapprove the lease without prior notice. Any lease entered into without approval or in violation of the above provisions shall be treated as a nullity, and the Board shall have the power to evict the lessee with five (5) days written notice, without securing consent to such eviction from the unit owner pursuant to Florida Law. The unit owner and illegal lessee shall pay for all attorney's fees and costs incurred by the Association incident to said eviction.

(E) Lease Applications. Application for authority to lease shall be made to the Board of Directors or its designee on such forms and include such terms as the Board may, from time to time, provide. The legal responsibility for paying condominium assessments may not be delegated to the lessee.

(F) Ad Hoc Committee. To facilitate approval of leases proposed during times when many of the members are not in residence, the Board of Directors may, by resolution, delegate its approval powers to an ad hoc committee, which shall consist of at least three different unit owners.

(G) Security Deposit. The Association may require a prospective lessee to place a security deposit in an amount not to exceed one month's rent into an escrow account maintained by the Association to protect against damages to the common elements or Association property.

15.2 Term of Lease and Frequency of Leasing. No unit may be leased for a term of less than thirty (30) days or one calendar month, whichever is less.

15.3 Occupancy During Lease Term. The total number of occupants of a leased unit is limited to six (6) persons for a two (2) bedroom unit, and shall be limited to four (4) persons for any one (1) bedroom unit.

15.4 Regulation by Association. In order to preserve a residential quality and avoid an atmosphere of transience and a motel-like environment, the Association may by regulation, impose further restrictions upon the number of guests and the frequency of their visits in the case of leased units. All of the provisions of the Condominium Documents and all Rules and Regulations of the Association pertaining to use and occupancy shall be applicable and enforceable against any person occupying a unit as a lessee or guest to the same extent as against an owner, and a covenant upon the part of each occupant to abide by the rules and regulations of the Association and the provisions of the condominium documents, and designating the Association as the owner's agent for the purpose of and with the authority to terminate any such occupancy agreement in the event of violations by the tenant of such covenant, shall be an essential element of any occupancy agreement, whether written or oral, and whether specifically expressed in such agreement or not.



## 16. INSURANCE:

### 16.1 Insurance Policies.

(A) The Association shall obtain fire and extended coverage insurance, vandalism and malicious mischief insurance insuring all the insurable improvements within the common elements together with such other insurance as the Association deems necessary in an amount which shall be equal to the maximum insurable replacement value as determined annually. The premiums for such coverage and other expenses in connection with said insurance shall be assessed against the unit owner as part of the common expenses. The named insured shall be the Association, individually and as agent for all unit owners, without naming them, and as agent for first mortgagees, and to other mortgagees upon request.

(B) Provision shall be made for the issuance of mortgagee endorsements and memoranda of insurance to mortgagees. Such policies shall provide that payments for losses thereunder by the insurer shall be made to the Insurance Trustee hereinafter described, and all policies and endorsements thereon shall be deposited with the Insurance Trustee unless as otherwise specified in Section 16.5 below.

### 16.2 Liability Insurance.-

(A) The Association shall obtain public liability insurance covering all of the common elements and insuring the Association and the unit owners as it and their interests appear, in such amounts as the Board of Directors may determine from time to time, provided that the minimum amount of coverage shall be \$1,000,000 for each incident and \$3,000,000 for an aggregate claim. Premiums for such insurance shall be chargeable as common expenses to be assessed against and paid by each of the unit owners.

(B) The Association shall not be responsible for purchasing liability insurance to cover accidents occurring within any individual unit.

### 16.3 Fire and Casualty Insurance.

(A) The Association shall obtain casualty insurance insuring against vandalism, malicious mischief, fire, windstorm and flood, and extended coverage insurance for the maximum insurable replacement value, said value to be determined annually by the Board of Directors, less any reasonable deductibles or exclusions as determined by the Board.

Every hazard insurance policy to protect the Condominium shall provide primary coverage for:

1. All portions of the condominium property located outside the units;
2. The condominium property located inside the units as such property was initially installed, or replacements thereof of like kind and quality and in accordance with the original plans and specifications or, if the original plans and specifications are not available, as they existed at the time the unit was initially conveyed; and
3. All portions of the condominium property for which this Declaration of Condominium requires coverage by the Association.

Anything to the contrary notwithstanding, the terms "condominium property," "building," "improvements," "insurable improvements," "common elements," "association property," or any other term found in the Declaration of Condominium which defines the scope of property or casualty insurance that a condominium association must obtain shall exclude all floor, wall, and ceiling coverings, electrical fixtures, appliances, air conditioner or heating equipment, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of a unit and serve only one unit and all air conditioning compressors that service only an individual unit, whether or not located within the unit boundaries. The foregoing is intended to establish the property or casualty insuring responsibilities of the Association and those of the individual unit owner and do not serve to broaden or extend the perils of coverage afforded by any insurance contract provided to the individual unit owner. The Association shall have the authority to amend the Declaration of Condominium, without regard to any requirement for mortgagee approval of amendments affecting insurance requirements, to conform the Declaration of Condominium to the coverage requirements of Florida Statutes Chapter 718.

(B) Premiums for Association insurance shall be chargeable as a common expense to be assessed against and paid by each of the unit owners. The Association shall annually make an analysis to determine replacement costs for insurance purposes for all of the then existing improvements for the ensuing year. Said insurance shall not insure against damage to the interior of individual units or personal property therein contained.

(C) Every hazard insurance policy issued or renewed to an individual unit owner shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property. Each insurance policy issued to an individual unit owner providing such coverage shall be without rights of subrogation against the Association. All real or personal property located within the boundaries of the unit owner's unit which is excluded from the coverage to be provided by the Association as set forth in paragraph (A) shall be insured by the individual unit owner.

16.4 Additional Insurance. The Association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. As used in this paragraph, the term "persons who control or disburse funds of the association" includes, but is not limited to, those individuals authorized to sign checks and the president, secretary, and treasurer of the Association. The Association shall bear the cost of bonding.

The Association may obtain such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable as well as that which may be required under Florida Statutes. Premiums for such insurance shall be chargeable as a Common Expense to be assessed against and paid by all unit owners. Other insurance may include if applicable: a) worker's compensation insurance; b) directors' and officers' liability insurance, if available.

16.5 Association - Shares of Proceeds. Proceeds covering property losses which shall be in the amount of the insurance deductible or less, shall be paid to the Condominium Association. The duty of the Association shall be to receive such proceeds as are paid and to hold them in trust for the benefit of the unit owners and mortgagees in a like manner as the duty of the Insurance Trustee as set forth in Section 16.6 and 16.7.

16.6 Insurance Trustee - Shares of Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, the unit owners and their mortgagees, as their interests may appear, and shall provide that all proceeds covering property losses which exceed the amount of the insurance deductible shall be paid to an Insurance Trustee which shall be designated by the Board and which shall be a bank or trust company in Florida with trust powers or a duly appointed, fully bonded individual specifically selected by the Board and whose actions shall be bound by the Declaration of Condominium and Florida law. The Insurance Trustee shall release funds within 5 business days of the receipt of any request for disbursement of insurance proceeds expressly authorized by the Board of Directors and executed by the President of the Association. Furthermore, the Insurance Trustee shall receive compensation at an hourly rate set by the Board (plus reasonable expenses) for each hour dedicated to Association business. The Insurance Trustee shall not be liable for payment of premiums, the renewal or the sufficiency of policies or the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes stated herein and for the benefit of the unit owners and their mortgagees in the following shares, which shares need not be set forth on the records of the Insurance Trustee:

(A) 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 elements appurtenant to any unit.

(B) Units. Proceeds on account of damage to a unit or units shall be hold in the following undivided shares:

(1) When the condominium building is to be restored, for the owners of damaged units in proportion to the cost of repairing the damage suffered be each unit owner, which cost shall be determined by the Association. The Association shall obtain reliable and detailed estimates of the cost to rebuild and repair.

(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 any unit.

(C) Mortgages. In the event a mortgagee 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.

16.7 Distribution of proceeds. In the event a loss occurs for which proceeds of insurance policies are received in excess of the amount of the insurance deductible, proceeds under the policies shall be disbursed by the Insurance Trustee in the following manner:

(A) Expenses of the Trustee. All expenses of the Insurance Trustee shall be paid first or provision made therefor.

(B) Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the Insurance Trustee shall pay the proceeds to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, each owner's share being equal to the undivided interest in the common elements and limited common elements appurtenant to any unit so long as the distribution does not conflict with the Florida Not-For-Profit Corporation Act. Such proceeds shall be paid to unit owners and their mortgagees jointly.

(C) 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 proceeds shall be distributed to the beneficial owners by the Insurance Trustee, each owner's share being equal to the undivided interest in the common elements and the limited common elements appurtenant to any unit. Remittances shall be paid to unit owners and their mortgagees jointly.

(D) Certificate. In making distributions to unit owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association, executed by its President or Vice President and Secretary or Assistant Secretary, as to the name of the unit owners and their respective shares of the distribution.

16.8 Agent for Association. The Board of Directors of the Association shall irrevocably appoint one person as agent for the unit owners and for the holders of mortgages or other liens upon the units and for the owners of any other interest in the condominium property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

16.9 Owners' Individual Insurance Policies. Each unit owner may obtain insurance coverage at his own expense to protect against claims due to accidents within or on his unit and casualty insurance on the contents within such unit.

16.10 Extent of Coverage.

(A) All casualty policies issued to protect condominium buildings shall provide that the word "building" wherever used in the policy shall not include appliances or additions comprising that part of the building within the unfinished interior surfaces of the perimeter walls, floors and ceilings of the individual units initially installed or replacements thereof, in accordance with the original plans and specifications. With respect to the coverage provided for by this paragraph, the unit owners shall be considered additional insureds under the policy.

(B) All other property contained within the unfinished interior surfaces to the perimeter walls, floors and ceilings of the individual units shall be insured by the individual unit owners.

17. RECONSTRUCTION OR REPAIR AFTER CASUALTY: If any part of the condominium property is damaged by casualty, whether it shall be reconstructed or repaired, the following shall apply:

17.1 (A) Damage to Common Element. If the damaged improvement is a common element, the damaged property shall be reconstructed or repaired by the Association unless it is determined in the manner elsewhere provided that the condominium shall be terminated.

(B) Condominium Buildings - Lesser Damage. If the damaged improvement is a condominium building or buildings and if the units to which less than seventy-five percent (75%) of the common elements are appurtenant are found by the Board to be untenable, the damaged property shall be reconstructed or repaired unless, within 60 days after the casualty, it is determined by agreement in the manner elsewhere provided that the condominium shall be terminated.

(C) Condominium Buildings-Major Damage. If the damaged improvement is a condominium building or buildings and if the units to which more than seventy-five percent (75%) of the common elements and the limited common elements are appurtenant are found by the Board of Directors to be untenable after the casualty, a decision as to whether the damaged property will be reconstructed and repaired or the condominium terminated shall be determined in the following manner:

(1) Immediately after the casualty the Association shall obtain reliable and detailed estimates of the cost to rebuild and repair.

(2) Immediately after the determination of the amount of insurance proceeds the Association shall give notice to all unit owners of the casualty, the extent of the damage, the estimated cost to rebuild or repair, the amount of insurance proceeds and the estimated amount of assessments required to pay the excess of the cost of reconstruction or repair over the amount of insurance proceeds.

(3) If the reconstruction and repair is approved at a meeting by the owners of seventy-five (75%) of the common elements and limited common elements, the damaged property shall be reconstructed or repaired; or, if not so approved, the condominium shall be terminated without agreement and any proceeds from insurance or sale of condominium property shall be distributed as provided in Section 16.7(C) of this Third Amended and Restated Declaration. Such approval may be expressed by vote or in writing filed with the Association at or prior to the meeting. The expense of such determination shall be assessed against all unit owners in proportion to their shares of the common elements and the limited common elements.

(D) Certificate. The Insurance Trustee may rely upon a certificate of the Association executed by its President or Vice President or Secretary or Assistant Secretary in determining whether the damaged property is to be reconstructed or repaired.

17.2 Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original improvements, or, if not, then according to plans and specifications approved by the Board of Directors of the Association and by the owners of not less than seventy-five percent (75%) of the common elements, including first mortgagees, the owners of damaged units and owners of units whose plans are intended to be altered, which approvals shall not be unreasonably withheld.

17.3 Responsibility. If the damage is only to those parts of an individual unit or units for which the responsibility of maintenance and repair is that of the unit owner, then the unit owner shall be responsible for reconstruction and repair after casualty.

17.4 Assessments to Reconstruct. If the proceeds of insurance are not sufficient to defray the estimated costs of construction and repair, or if at any time during reconstruction, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, notwithstanding anything to the contrary contained herein, assessments shall be made against all unit owners in sufficient amounts to provide funds for the payment of such costs. Such assessments shall be in proportion to the owner's share in the common elements and the limited common elements. The fund created by the payment of these assessments shall be turned over to the Insurance Trustee, who shall handle these proceeds in the manner provided for in this Third Amended and Restated Declaration of Condominium.

## 18. CONDEMNATION OR EMINENT DOMAIN:

18.1 In case at any time or times the condominium property or any part thereof shall be taken or condemned by any authority having the power of eminent domain, all proceeds paid for or on account of such taking shall be payable to a trustee which shall be designated by the Board of Directors which shall be a bank or trust company in Florida with trust powers for the benefit of all unit owners and mortgagees according to the loss or damage to their respective interests in the condominium property, as follows:

(A) All Units Remain Tenantable. If such taking does not reduce or make untenantable any of the units, said proceeds shall be used promptly to replace or restore improvements taken upon the affirmative vote of the owners of seventy-five percent (75%) of the units. If the owners of seventy-five percent (75%) of the units do not approve the replacement and restoration of the property so taken, the proceeds shall be distributed to the unit owners in proportion to the impairment of their respective interests.

(B) Some Units are Made Untenantable. If such taking reduces or makes untenantable any of the units, the proceeds shall be distributed to the unit owners and mortgagees affected by such taking jointly and in proportion to the impairment of their respective interests. The shares of the common elements appurtenant to the units which continue as part of the condominium shall be equitably adjusted to distribute the ownership of the common elements among the reduced number of owners.

(C) All Units are Untenantable. If such taking reduces or makes untenantable all of the units, the proceeds shall be distributed by the Association in the same manner as insurance proceeds as provided above, unless the owners of seventy-five percent (75%) of the units vote to restore or replace the portions of the condominium property so taken. In the event said unit owners approve the restoration and replacement of said property, the Association shall disburse the award to contractors engaged in such replacement and restoration in appropriate progress payments; provided however, any such replacement or restoration must

be according to plans and specifications approved by the Board of Directors of the Association and by the owners of seventy-five percent (75%) of the units. If the award is not sufficient to pay the cost of such replacement and restoration, then additional assessments may be made against unit owners as provided in the By-Laws.

## 19. TERMINATION OF CONDOMINIUM:

19.1 If all unit owners and the holders of all liens and mortgages upon all of the condominium parcels execute and duly record an instrument terminating the condominium property, or if "major damage" occurs as defined herein in this Third Amended and Restated Declaration of Condominium, the condominium property shall be removed from the provisions of the Condominium Act and thereafter owned in common by the unit owners. The undivided interest in the property owned in common by each unit owner shall then be a percentage of the undivided interest by such owner in the common elements, and any liens which encumbered any condominium parcel shall be transferred to said undivided interest of the unit owner in the property.

19.2 If the condominium is terminated, the owners of the units shall continue to be responsible for their share of the common expenses attributable to the condominium property and all other Association expenses, as set forth in this Third Amended and Restated Declaration and the Third Amended and Restated By-Laws.

19.3 If the owners of at least seventy-five percent (75%) of the common elements elect to terminate, they shall have the option to buy the units of the other unit owners for a period of sixty (60) days from the date of the meeting wherein the election to terminate was taken. The purchase price shall be the fair market value of the units as of the date of said meeting as determined by arbitration under the rules of the American Arbitration Association. The price shall be paid in cash within thirty (30) days of the determination of the same.

19.4 Amendment. This section concerning termination cannot be amended without consent of all unit owners and of all record owners of first mortgages upon the units.

## 20. OBLIGATIONS OF OWNERS:

20.1 Compliance. Each unit owner, his tenants and guests, and the Association, shall be governed by and shall comply with the provisions of the Florida Condominium Act, Section 718 Florida Statutes, the Florida Corporation Law, including Section 617 Florida Statutes, the Declaration of Condominium, the documents creating the Association, the By-Laws, and the Condominium Rules and Regulations and all amendments thereto and restatements thereof. A direct action for damages or for injunctive relief, or both, or for failure to comply with



these provisions may be brought by the Association or by a unit owner against:

- A. The Association;
- B. A unit owner;
- C. Anyone who occupies a unit; or
- D. Any member of the Board of Directors who willfully and knowingly fails to comply with these provisions.

**20.2 Condominium Act Waiver.** A provision of the Florida Condominium Act may not be waived by a unit owner if the waiver would adversely affect the rights of the owner or defeat the purpose of the provision, except that unit owners or members of the Board of Directors may waive notice of special meetings in writing as provided by the By-Laws. Any instrument given in writing by the unit owner to an escrow agent may be relied upon by an escrow agent, whether or not such instruction and the payment of funds thereafter might constitute a waiver of any provision of the Condominium Act.

**20.3 Attorney's Fees and Costs.** In any legal proceeding arising out of an alleged failure of a tenant of a unit owner, unit owner or the Association to comply with the requirements of the Condominium Act or the Condominium Documents, including the Declaration of Condominium, By-Laws, Articles of Incorporation and Rules and Regulations, as they may be amended from time to time, the prevailing party shall be entitled to recover all costs of the proceeding and such reasonable attorney's fees as may be awarded by the court.

**20.4 No Waiver of Rights.** The failure of the Association or of a member 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 or member to enforce such right, provision, covenant or condition in the future.

**20.5 No Election or Remedies.** All right, remedies and privileges granted to the Association or unit owners, pursuant to 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 a party from exercising such other and additional rights, remedies, or privileges as may be granted by the Condominium Documents, or at law or in equity.

**20.6 Notice of Lien or Suit.**

A. **Notice of Lien.** A unit owner shall give to the Association written notice of every lien upon the unit other than for permitted

mortgages, taxes and special assessments, within five (5) days after that unit owner receives actual notice of the lien thereof.

B. Notice of Suit. A unit owner shall give written 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 within five (5) days after the unit owner received actual knowledge thereof.

C. Failure to Comply. Failure to comply with this section will not affect the validity of any judicial suit.

20.7 Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association shall not be liable to unit owners for injury or damage, other than the cost of maintenance and repair, caused by and latent condition of the property to be maintained and repaired by the Association, or caused by the elements or other owners or persons.

Should the Association be named as a defendant or co-defendant in a lawsuit arising out of an accident or incident within a unit, the Association reserves the right to pursue recovery of all reasonable costs and attorneys' fees for its defense from both the unit owner and/or any plaintiff involved in such legal action.

20.8 Restraint Upon Assignment of Shares in Assets. The shares of members in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to a unit.

20.9 Approval or Disapproval of Matters. Whenever the decision of a unit owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed in accordance with the By-Laws of the Association.

## 21. RIGHTS OF MORTGAGEES:

21.1 Approvals. Prior written approval of the record holder of a first mortgage lien on a unit in the condominium shall be required:

A. For the abandonment or termination of the condominium except for that provided in the case of substantial destruction by fire or other casualty, or in the case of a taking by condemnation or eminent domain;

B. For any amendment to the Declaration which would decrease the percentage interest of the unit in the ownership of the condominium.

## 22. AMENDMENT OF DECLARATION:

22.1 Method. Except as otherwise provided, this Declaration may be amended if the amendment is approved by not less than seventy-five percent (75%) of the voting interests present, in person or by proxy, at any annual or special meeting.

22.2 Certificate. An amendment shall be evidenced by a certificate of the Association which shall include the recording data identifying the Declaration and shall be executed in the form required for the execution of a deed.

22.3 Effective Date. An amendment to the Declaration of Condominium is effective when properly recorded in the Public Records of Collier County, Florida.

22.4 Limitation of Amendment. No amendment may change the configuration or size of any unit in any material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the unit owner shares the common expenses of the Condominium and owns the common surplus of the Condominium, unless the record owner of the unit and all record owners of liens on the unit join in the execution of the amendment and unless all the record owners of all other units in the same Condominium approve the amendment. The acquisition of property by the Association and material alterations or substantial additions to such property or the common elements by the Association in accordance with Florida Statutes sections 718.111(7) or 718.113, and amendments providing for the transfer of use rights in limited common elements pursuant to Florida Statutes Section 718.106(2)(b) shall not be deemed to constitute a material alteration or modification of the appurtenances to the units. This section shall not apply to changes caused by condemnation or a taking by eminent domain as provided in this Declaration.

22.5 Correction of Errors. If there is an omission or error in this Declaration of Condominium or in other documents required by Florida Law to establish a condominium, the Association may correct the error or omission by any and all procedures set forth in the Condominium Act.

22.6 Exceptions. Whenever in this Declaration the consent, approval or affirmative vote of more than a majority of all unit owner is required in order to take a particular action, the section requiring the particular number of consents, approvals, or votes may not be amended except by the same vote required to take the action.

## 23. MISCELLANEOUS:

23.1 Severability. The invalidity in whole or in part of any covenant or restriction or any section, subsection, sentence, clause, phrase or word or other provision of this Third Amended and Restated Declaration, the Third Amended and Restated By-Laws, the Rules and Regulations of the

Association, and any other exhibit attached hereto, shall not effect the remaining portions thereof.

23.2 Applicable Statutes. The validity, application, and construction of this Declaration and its exhibits shall be governed by the Laws of Florida, particularly the Condominium Act, Section 718, Florida Statutes, as it may be amended from time to time.

23.3 Conflicts. In the event of a conflict between any provision of this Third Amended and Restated Declaration of Condominium and the Condominium Act, the Condominium Act, Section 718, Florida Statutes, shall control. In the event of a conflict between this Declaration and the Association's Third Amended and Restated By-Laws, the Declaration of Condominium shall control.

23.4 Interpretation. The Board of Directors of the Association shall be responsible for interpreting the provisions of this Declaration and of any exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable.

23.5 Exhibits. There are hereby incorporated within this Third Amended and Restated Declaration several materials contained in the exhibits hereto which under the Condominium Act are required to be part of the Declaration.

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PAGE

AMENDED AND RESTATED ARTICLES OF INCORPORATION  
OF  
THE SANDCASTLE II CONDOMINIUM ASSOCIATION, INC.

Pursuant to Chapter 617, Florida Statutes, the Articles of Incorporation of THE SANDCASTLE II CONDOMINIUM ASSOCIATION, INC., a Florida corporation, not for profit, filed with the Secretary of State, Tallahassee, Florida, on June 15, 1981, are hereby amended and restated in their entirety. The Amended and Restated Articles of Incorporation of THE SANDCASTLE II CONDOMINIUM ASSOCIATION, INC., shall henceforth be as follows:

ARTICLE I

**NAME:** The name of the corporation shall be THE SANDCASTLE II CONDOMINIUM ASSOCIATION, INC.

ARTICLE II

**PURPOSE AND POWERS:** The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act (Chapter 718, Florida Statutes) for the operation of THE SANDCASTLE II CONDOMINIUM ASSOCIATION, INC., located in Collier County, Florida.

A-1

EXHIBIT "R"

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The Association is organized on a non-stock basis and shall exist as a non-profit corporation under the laws of the State of Florida, and no portion of any earnings of the Association shall be distributed or inure to the private benefit of any member, Director, or officer of the Association. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not-for-profit under the laws of the State of Florida, except as limited or modified by these Articles, the Declaration of Condominium, the By-Laws or the Florida Condominium Act; and it shall have all of the powers and duties reasonably necessary to operate the condominium pursuant to the Declaration of Condominium as it may hereafter be amended, or amended and restated, including but not limited to the following:

- A. To make and collect assessments against members of the Association to defray the costs, expenses and losses of the condominium, and to use the proceeds of assessments in the exercise of its powers and duties.
- B. To maintain, repair, replace and operate the condominium property.
- C. To purchase insurance upon the condominium property for the protection of the Association and its members.
- D. To reconstruct improvements after casualty and to make further improvements on the property.
- E. To make, amend and enforce reasonable rules and regulations governing the use of the common elements.

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PAGE

F. To approve or disapprove the transfer, mortgage, ownership and occupancy of units, as provided by the Declaration of Condominium and the By-Laws.

G. To enforce the provisions of the Condominium Act (Chapter 718, Florida Statutes), the Declaration of Condominium, these Articles, and the By-Laws of the Association.

H. To contract for the management and maintenance of the condominium and to delegate any powers and duties of the Association in connection therewith except such as are specifically required by the Declaration of Condominium to be exercised by the Board of Directors or the membership of the Association.

I. To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the condominium.

All funds and the title to all property acquired by the Association shall be held for the benefit of the members in accordance with the provisions of the Declaration of Condominium, these Articles of Incorporation and the By-Laws and all amendments and amendments and restatements thereof.

ARTICLE III

MEMBERSHIP:

A. The members of the Association shall consist of all record owners of a fee simple interest in one or more units in the condomin-

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ium, and as further provided in the By-Laws, after termination of the condominium, the members shall consist of those who are members at the time of such termination.

B. After receiving approval of the Association as required by the Declaration of Condominium, change of membership shall be established by recording in the Public Records of Collier County, Florida, a deed or other instrument and by the delivery to the Association of a copy of such instrument.

C. The share of a member in the funds and assets of the Association cannot be assigned, or transferred in any manner except as an appurtenance to a unit.

D. The owners of each unit, collectively, shall be entitled to one vote in Association matters for each unit owned. The manner of exercising voting rights shall be as set forth in the By-Laws.

ARTICLE IV

TERM: The term of the Association shall be perpetual.

ARTICLE V

BY-LAWS: The By-Laws of the Association may be altered, amended, or rescinded in the manner provided therein.



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ARTICLE VI

AMENDMENTS: Amendments to these Articles shall be proposed and adopted in the following manner.

A. Proposal. Amendments to these Articles shall be proposed by a majority of the Board or upon petition of a majority of the unit owners by instrument, in writing, signed by them.

B. Notice. Upon any amendment or amendments to these Articles being proposed by a unit owner, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall, thereupon determine which of the methods shown in (C) below shall be used for voting. The appropriate notices and copies of the proposed amendments shall be mailed to the members not less than thirty (30) days after transmittal to the President.

C. Except as otherwise provided for by Florida law, these Articles of Incorporation may be amended by vote of two-thirds (2/3) of the voting interests present and voting at any annual or special meeting, or by approval in writing of the owners of two-thirds (2/3) of the units without a meeting, provided that notice of any proposed amendment has been given to the members of the Association, and that notice contains a fair statement of the proposed amendment.

D. An amendment shall become effective upon filing with the Secretary of State and recording a certified copy in the Public Records of Collier County, Florida.

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PAGEARTICLE VIIDIRECTORS AND OFFICERS:

A. The affairs of the Association will be administered by the Board of Directors consisting of the number of Directors determined by the By-Laws. Directors must be members, or spouses of members, of the Association.

B. Directors of the Association shall be elected by the members in the manner determined by the By-Laws. Directors may be removed and vacancies of the Board of Directors shall be filled in the manner provided by the By-Laws.

C. The business of the Association shall be conducted by the officers designated in the By-Laws. The officers shall be elected by the Board of Directors at its first meeting following the annual meeting of the members of the Association and shall serve at the pleasure of the Board.

ARTICLE VIIIINDEMNIFICATION:

Each Director and Officer of this Corporation shall be indemnified by the Corporation against all costs and expenses reasonably incurred or imposed upon him in connection with or arising out of any action, suit or proceedings in which he may be involved or to which he may be made a party by reason of his having been a Director or Officer of this Corporation, such expense to include the cost of reasonable

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settlements (other than amounts paid to the Corporation itself) made with a view of curtailment of costs of litigation. The Corporation shall not, however, indemnify such Director or Officer with respect to matters as to which he shall be finally adjudged in any such action, suit or proceedings to be liable for negligence or misconduct in the performance of his duty as such Director or Officer, or in respect to any matter in which any settlement or compromise is effectuated if the total expense, including the cost of settlement, shall substantially exceed the expense which might reasonably be incurred by such Director or Officer in conducting such litigation to final conclusion, and in no event shall anything herein contained be construed as authorizing this Corporation to indemnify any such Director or Officer against any liability of the Corporation to which he would otherwise be subject by reason of willful malfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his office. The foregoing right of indemnification shall be in addition to any other rights to which any such Director or Officer may be entitled as a matter of law or otherwise.

ARTICLE IX

NO STOCK: Although the Association is a corporation, the Association shall never have or issue share of stock and/or certificates of membership, nor shall it ever provide for non-member voting.

ARTICLE X  
A-7

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BOARD OF DIRECTORS: The names and addresses of the Board of Directors of THE SANDCASTLE II CONDOMINIUM ASSOCIATION, INC. are the following persons or such other persons who shall be elected to serve in their stead:

Joseph Zgonino, President  
2228 Harrowgate Drive, Barrington, Illinois 60010

Lucille M. Harris, Vice President  
720 South Collier Blvd., Unit 908, Marco Island, Florida 33937

Janet Hite, Secretary-Treasurer  
1032 Breewood Court, Findlay, Ohio 45840

Dr. J. Arthur Heise  
7121 Southwest 56th Street, Miami, Florida 33155

John Spiegel  
368 East Glen Avenue, Ridgewood, New Jersey 07450

Robert Satterlin  
2125 Lyman Road, Columbus, Ohio 43220

The undersigned, being the duly elected and acting President and Secretary of THE SANDCASTLE II CONDOMINIUM ASSOCIATION, INC., hereby certify that the foregoing were duly proposed by a \_\_\_\_\_ at a \_\_\_\_\_ meeting of the Board of Directors called for the purpose and held on the \_\_\_\_\_ day of \_\_\_\_\_, 1989. The undersigned further certify that the foregoing were approved by the affirmative vote of not less than two thirds (2/3) of the total membership of the corporation at the \_\_\_\_\_ meeting of the members held on the \_\_\_\_\_ day of \_\_\_\_\_, 1989, after due notice, in accordance with the requirements of the Articles of Incorporation for their amendment. The foregoing both amend and restate the Articles of

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Incorporation in their entirety.

Dated this 30th day of June, 1990.

THE SANDCASTLE II CONDOMINIUM  
ASSOCIATION INC.

ATTEST:

Maxine Shapiro  
Its Secretary

BY: Joseph Zgonina  
Its President

(CORPORATE SEAL)

STATE OF FLORIDA  
COUNTY OF COLLIER

I HEREBY CERTIFY that on this day before me, an officer duly au-  
thorized to take acknowledgments, personally appeared  
Maxine Shapiro and Joseph Zgonina,  
well known to me to be the President and Secretary, respectively, of  
the aforementioned corporation and they acknowledged execution of the  
foregoing instrument freely and voluntarily under the authority duly  
vested in them by said corporation.

WITNESS my hand and official seal this 30th day of  
June, 1990.

[Signature]  
NOTARY PUBLIC  
My Commission Expires:

Instrument Prepared By:  
Henry Paul Johnson, Esq.  
Law Offices of Henry Paul Johnson, P.A.  
Seagate Building - Suite #204  
800 Seagate Drive, Naples, Florida 33940

THIRD AMENDED AND RESTATED BY-LAWS OF  
THE SANDCASTLE II CONDOMINIUM ASSOCIATION, INC.,  
A NOT-FOR-PROFIT FLORIDA CORPORATION

1. GENERAL.

1.1 Introduction. These are the Third Amended and Restated By-Laws of THE SANDCASTLE II CONDOMINIUM ASSOCIATION, INC., hereinafter the "Association", a corporation not-for-profit, organized under the laws of Florida for the purpose of administering a condominium pursuant to the Florida Condominium Act, Section 718, Florida Statutes. All prior By-Laws and Amended By-Laws are hereby revoked and superseded in their entirety.

1.2 Office. The principal office of the Association shall be at 720 South Collier Boulevard, Marco Island, Florida 34145.

1.3 Association Seal. The seal of the Association shall be inscribed with the name of the Association, the year of its organization, and the words "Florida" and "not-for-profit". The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

2. MEMBERS.

2.1 Qualification. The membership of the Association shall include all persons who are owners of a fee simple interest in any unit. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. If the owner of a condominium parcel is not a natural person, the subject entity shall designate a natural person who shall be entitled to occupy the condominium parcel, and such natural person shall be that unit's only member of the Association. Membership shall become effective upon the owner's recording a deed evidencing his ownership in the Public Records of Collier County, Florida, after having been approved as provided in the Declaration of Condominium, and upon providing a copy of the recorded deed to the Secretary of the Association.

2.2 Voting Rights. The members of the Association shall be entitled to one (1) vote for each unit owned by them. The total votes shall not exceed the total number of units. The vote of a unit shall not be divisible. The right to vote may not be denied because of delinquent assessments. If a condominium unit is owned by one person, his right to vote shall be established by the record title to the unit. When more than one person holds an ownership interest in any unit, all such persons shall be Association members provided, however, that the vote for such unit shall be exercised by one person who must be designated in writing to the Association. Any request to change the designated voting member

must be signed by all persons holding an ownership interest in that unit (for co-ownership) or by the trustee or president (for units held by a trust or corporation). Under no circumstances can the voting member be changed less than 48 hours before any vote of the membership.

2.3 Membership Change. Following express written approval of the Association, a change of membership in the Association shall be established by recording in the public records of Collier County, Florida, a deed or other instrument establishing a record title to a unit and the entering of the owner's name and address on the roster of the condominium. Thereupon, the grantee in such instrument shall become a member of the Association and the membership of the prior owner shall thereby be automatically terminated.

2.4 Membership Termination. The termination of membership in the Association does not relieve or release any former member from liability or obligation incurred under or in any way connected with the condominium during the period of his membership, nor does it impair any rights or remedies which the Association may have against a former owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

### 3. MEMBERS' MEETINGS.

3.1 Members' Annual Meeting. The members shall meet at least once in each calendar year and such meeting shall be the annual meeting. The annual meeting shall be held in Collier County, Florida, at 720 South Collier Boulevard, Marco Island, Florida within two weeks (either before or after) of the last Saturday of the first quarter of each calendar year for the purpose of electing Directors and transacting any other business duly authorized to be transacted by the members provided that said meeting is held not later than thirteen (13) months after the last annual meeting.

3.2 Members' Special Meetings. Special members' meetings shall be held whenever called by the President or by a majority of the Board of Directors, and must be promptly called by the Secretary upon receipt of a written petition from members entitled to cast ten percent (10%) of the votes of the entire membership. Such petition shall state the purpose or purposes of the meeting, and shall be signed by all the members making the request. Business at any special meeting shall be limited to the items specified in the request and contained in the notice of meeting.

3.3 Notice of Annual and Special Meetings Notice of all members' meetings shall state the time, date, and place of the meeting and shall include a written agenda. The notice must be mailed to each member at his address as it appears on the books of the Association, or may be furnished by personal delivery, or may be electronically transmitted. The notice for special meetings must be mailed or delivered or electronically transmitted to each member and posted conspicuously on the

condominium property at least fourteen (14) days prior to the date of the meeting. Notice of the annual meeting shall be mailed or delivered or electronically transmitted to each member and shall be posted in a conspicuous place on the condominium property at least fourteen (14) days prior to the annual meeting. Upon notice to the unit owners, the Board shall by duly adopted rule designate a specific location on the Condominium property or Association property upon which all notices of unit owner meetings shall be posted. In lieu of or in addition to the physical posting of notice of any meeting of the unit owners on the Condominium property, the Association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the Association. However, if broadcast notice is used in lieu of a notice posted physically on the Condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. Unless a unit owner waives in writing the right to receive notice of the annual meeting, such notice shall be hand delivered, mailed, or electronically transmitted to each unit owner. Notice for meetings and notice for all other purposes shall be mailed to each unit owner at the address last furnished to the Association by the unit owner, or hand delivered to each unit owner. However, if a unit is owned by more than one person, the Association shall provide notice, for meetings and all other purposes, to that one address one or more of the owners of the unit shall so advise the Association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the Association, or the manager or other person providing notice of the Association meeting, shall provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the Association affirming that the notice was mailed or hand delivered, in accordance with this provision. The foregoing requirements are not to be construed, however, to prevent unit owners from waiving notice of meetings or from acting by written agreement without meetings, as provided in the condominium documents or under the laws of the State of Florida.

**3.4 Notice of Budget Meeting.** The Board of Directors shall mail a notice and a copy of the proposed annual budget to the unit owners not less than thirty (30) days before the meeting at which the Board will consider the budget.

**3.5 Notice of Meeting to Consider Excessive Budget.**

A. If the Board adopts in any fiscal year an annual budget which requires assessments against unit owners which exceed 115 percent of assessments for the preceding fiscal year, the Board shall conduct a special meeting of the unit owners to consider a substitute budget if the Board receives, within 21 days after adoption of the annual budget, a written request for a special meeting from at least 10 percent of all voting interests. The special meeting shall be conducted within 60 days



after adoption of the annual budget. At least 14 days prior to such special meeting, the Board shall hand deliver to each unit owner, or mail to each unit owner at the address last furnished to the Association, a notice of the meeting. An officer or manager of the Association, or other person providing notice of such meeting shall execute an affidavit evidencing compliance with this notice requirement, and such affidavit shall be filed among the official records of the Association. Unit owners may consider and adopt a substitute budget at the special meeting. A substitute budget is adopted if approved by a majority of all voting interests. If there is not a quorum at the special meeting or a substitute budget is not adopted, the annual budget previously adopted by the Board shall take effect as scheduled.

B. Any determination of whether assessments exceed 115 percent of assessments for the prior fiscal year shall exclude any authorized provision for reasonable reserves for repair or replacement of the Condominium property, anticipated expenses of the Association which the Board does not expect to be incurred on a regular or annual basis, or assessments for betterments to the Condominium property.

3.6 Quorum. A quorum at members' meetings shall be attained by the presence, either in person or by proxy, of persons entitled to cast greater than thirty-three and one-third percent (33.3%) of the votes of the entire membership.

3.7 Proxies. Votes at members' meetings may be cast in person or by proxy. A proxy may be given by any person entitled to vote, but shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting. No proxy shall be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. A proxy must be in writing, dated and signed by the person authorized to cast the vote for the unit, specify the date, time and place of the meeting for which it is given and be filed with the Secretary before the appointed time of the meeting, or before the time, if any, to which the meeting is adjourned. No proxy shall be valid if it names more than one person as the holder of the proxy. The holder shall have the right, only if the proxy so provides, to substitute another person to hold the proxy. Unless otherwise specifically provided under Florida law, unit owners may not vote by general proxy, but may vote by limited proxies. However, limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes to: waive or reduce reserves; waive financial requirements; amend the Declaration, Articles of Incorporation or By-Laws; and for other matters permitted or required under Florida Statutes. Under no circumstances shall a proxy be used to vote in an election of a Board member.

3.8 Adjournments. Any meeting, regardless of whether a quorum has been attained, may be adjourned by majority vote of those present to meet at a later time. If a proxy has been given for a regular or special meeting, to be convened at a given date and time, and that meeting is adjourned to convene at another or later date (no more than ninety (90) days after the date of the adjourned meeting), the proxy so given shall

continue in effect unless revoked, and be valid for quorum count, and voting purposes, and as to all businesses transacted at such adjourned meeting.

3.9 Business Order. The order of business at members' meetings shall be as follows:

The Election of Directors (if applicable) shall be held. Thereafter, the incumbent President shall preside over the meeting, with the agenda to be in the following order:

- A. Call of the roll and certification of quorum
- B. Proof of notice, or waiver of notice, of meeting
- C. Reading and disposal of any unapproved minutes
- D. Reports of Officers
- E. Reports of Committees
- F. Unfinished Business
- G. Old Business
- H. New Business
- I. Adjournment.

3.10 Minutes. Minutes of all meetings of members and of the Board of Directors shall be kept in a businesslike manner and available for inspection by members or their authorized representatives at all reasonable times and for a period of at least seven (7) years after the meeting. Unit owners and their authorized representatives shall have the right to tape record or videotape a meeting of the unit owners subject to reasonable rules adopted by the Division of Florida Land Sales, Condominiums and Mobile Homes.

3.11 Rules of Order. The latest edition of Roberts' Rules of Order shall govern the conduct of the Association meetings when not in conflict with the Declaration of Condominium or these By-Laws. The Board of Directors may appoint a Parliamentarian, whose decision on Parliamentary questions shall be final.

3.12 Action by Members Without Meeting. Any action required or permitted to be taken at a meeting of the members may be taken without a meeting if written consents, setting forth the action to be taken, are signed by the members having not less than the minimum number of votes that would be necessary to take such action at a meeting, or a majority of the total votes of the entire membership, whichever is greater. If the requisite number of written consents are received by the Secretary within thirty (30) days of the date when notices of the proposed action were sent to the members, the Board of Directors may take the authorized action by adopting a resolution to that effect. Within ten (10) days after adopting the resolution, the Board shall send written notice of the action taken to all members who have not consented in writing. Nothing in this paragraph shall be construed in derogation of members' rights to call a special meeting of the membership, as elsewhere provided in these By-Laws.

**3.13 Waiver of Notice.** Unit owners may waive their right to receive notice of any meeting, whether annual or special, by a writing signed by them to that affect. The waiver shall be filed with the Secretary of the Association either before, at or after the meeting for which the waiver is given.

Notice of meetings of the Board of Directors, unit owner meetings, except unit owner meetings called to recall Board members, and committee meetings may be given by electronic transmission to unit owners who consent to receive notice by electronic transmission.

**3.14 Actions Specifically Requiring Unit Owner Votes.** The following actions require approval of the unit owners and may not be taken by the Board of Directors acting alone:

- A. Amendments to Declaration of Condominium, By-Laws and Articles of Incorporation of the Association.
- B. Cancellation of certain grants or reservations made by the Declaration of Condominium, a lease or other document and any contract made by the Association before the transfer of control of the Association from the developer to unit owners other than the developer.
- C. Exercise of Option to purchase recreational or other commonly used facilities lease.
- D. Providing No Reserves, or less than adequate reserves.
- E. Recall of members of Board of Directors.
- F. Other matters contained in the Declaration, the Articles or By-Laws, or Florida Statute 718 that specifically require a vote of the Members.

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

**4. BOARD OF DIRECTORS.** The administration of the affairs of the association shall be by a Board of Directors.

**4.1 Number and Terms of Service.** The number of Directors which shall constitute the whole Board of Directors shall be seven (7). The Directors shall be divided into three groups of as nearly equal number as possible. Beginning in 2002, two (2) Directors shall begin serving three-year terms, with the ultimate goal of all Directors serving three-year terms, and with no more than three (3) Directors elected at any Annual Meeting.

Four (4) Directors shall be elected at the 2002 Annual Meeting, of which two (2) Directors shall be elected to three-year terms and two (2) Directors shall be elected to two-year terms. The two candidates with the highest number of votes shall serve the three-year terms; the two candidates with the next highest totals shall serve two-year terms. In the event of ties, the tie-breaking criteria will be (in order):

- A. Previous service as an officer of the Condominium Association
- B. Previous service on the Board
- C. Previous service on an official committee of the Condominium Association
- D. Agreement amongst tied candidates
- E. Appointment by the incumbent President.

In 2003, three (3) Directors shall be elected to three-year terms. In 2004, two (2) Directors shall be elected to three-year terms. In 2005, two (2) Directors shall be elected to three-year terms.

A Director who has served four (4) consecutive years from and after the 1997 election, shall be eligible for re-election to the Board (including election to fill a vacancy pursuant to Section 4.4 "Vacancies on the Board" below) only after an interval of one business year (the time between annual elections) from the expiration of such Director's fourth consecutive full year of service. Any Director elected at or after the 2002 election, who has served for five (5) consecutive years or longer, shall be eligible for re-election to the Board (including election to fill a vacancy pursuant to Section 4.4 "Vacancies on the Board" below) only after an interval of one business year.

4.2 Qualifications. Each Director must be –

- a) Either a member of the Association
- b) Or, the spouse of a member
- c) Or, the domestic partner of a member, who resides with the member as a single housekeeping unit.

Specifically, no lessee may be a Director.

4.3 Elections.

Any vacancy on the Board caused by the expiration of a Director's term shall be filled by electing a new Board member, and the election shall be by secret ballot; however, if the number of vacancies equals or exceeds the number of candidates, no election is required.

A person who has been convicted of any felony by any court of record in the United States and who has not had his or her right to vote restored pursuant to law in the jurisdiction of his or her residence is not eligible for Board membership. The validity of an action by the Board is not affected if it is later determined that a member of the Board is ineligible for Board membership due to having been convicted of a felony.

The members of the Board shall be elected by written ballot or voting machine. Proxies shall in no event be used in electing the Board, either in general elections or elections to fill vacancies caused by recall, resignation, or otherwise, unless otherwise provided in these documents. Not less than 60 days before a scheduled election, the Association shall mail, deliver, or electronically transmit, whether by separate Association mailing or included in another Association mailing, delivery, or transmission, including regularly published newsletters, to each unit owner entitled to a vote, a first notice of the date of the election. Any unit owner or other eligible person desiring to be a candidate for the Board must give written notice to the Association not less than 40 days before a scheduled election. Together with the written notice and agenda as set forth in Section 3.3, the Association shall mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote therein, together with a ballot which shall list all candidates. Upon request of a candidate, the Association shall include an information sheet, no larger than 8<sup>1</sup>/<sub>2</sub> inches by 11 inches, which must be furnished by the candidate not less than 35 days before the election, to be included with the mailing, delivery, or transmission of the ballot, with the costs of mailing, delivery, or electronic transmission and copying to be borne by the Association. The Association is not liable for the contents of the information sheets prepared by the candidates. In order to reduce costs, the Association may print or duplicate the information sheets on both sides of the paper. The Division shall by rule establish voting procedures consistent with the provisions contained herein, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots. Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of members of the Board. No unit owner shall permit any other person to vote his or her ballot, and any such ballots improperly cast shall be deemed invalid, provided any unit owner who violates this provision may be fined by the Association in accordance with Florida Statutes Section 718.303. A unit owner who needs assistance in casting the ballot for the reasons stated in Florida Statutes Section 101.051 may obtain assistance in casting the ballot. The regular election shall occur on the date of the annual meeting.

4.4 Vacancies on the Board. If the office of any Director or Directors becomes vacant for any reason, a majority of the remaining Directors, though less than a quorum, shall promptly choose a successor or successors, who shall hold office for the unexpired term.

4.5 Removal of Directors. Any or all Directors may be removed with or without cause by a majority vote of the entire membership, either by a signed writing or at any meeting called for that purpose. If a petition is filed for the recall or removal of more than one Director, the question shall be voted separately as to each Director sought to be recalled or removed. A special meeting of the unit owners to recall a member of the Board may be called by 10 percent of the voting interests giving notice of the meeting as required for a meeting of unit owners, and the notice shall state the purpose of the meeting and must be accompanied by a dated copy of the signature list, stating the purpose

of the signatures. The meeting must be held not less than fourteen (14) days or more than sixty (60) days from the date of the notice.

A. By Agreement: If the proposed recall is by an agreement in writing by a majority of all voting interests, the agreement or a copy thereof shall be served upon the Association in the manner provided for by law, and the Board shall duly notice and hold a meeting within 5 full business days after receipt of the agreement. At the meeting, the Board shall either certify the agreement, and the recall shall be effective as of the meeting, or in the alternative the Board shall file a petition for arbitration with the Division of Land Sales, Condominiums and Mobile Homes within 5 full business days of the meeting.

B. By Vote of the Membership: If the recall is approved by a majority of all voting interests by a vote at a meeting, the Board shall hold a duly noticed meeting within 5 full business days of the adjournment of the unit owner meeting. At the Board meeting, the Board shall either certify the recall, in which case the recall is effective as of the Board meeting, or the Board shall file a petition for arbitration with the Division of Land Sales, Condominiums, and Mobile Homes.

Any vacancy on the Board of Directors thus created shall be filled by the members of the Association at the same meeting. If more than one Director is subject to recall, there shall be a separate vote on the question to remove each director.

4.6 Disqualification and Resignation. Any Director may resign at any time by sending a personally delivered written notice of resignation to the Association, addressed to the Secretary. The resignation shall take effect on receipt by the Secretary, unless it states differently. Any Board member elected by the unit owners who is absent from more than three (3) Board meetings, unless excused by resolution of the Board, shall be deemed to have resigned from the Board of Directors automatically.

4.7 Organizational Meeting. The organizational meeting of each newly-elected Board of Directors shall be held at the Condominium immediately after the annual meeting at which new directors were elected. In the event that a quorum of directors is not present, then the meeting shall be re-scheduled within fourteen (14) days, by consensus of the newly formed Board. Notice of any such re-scheduled meeting must be conspicuously posted on the condominium property at least forty-eight (48) hours in advance of the meeting.

4.8 Regular Meetings. In addition to the organizational meeting, at least one meeting of the Board shall be held at the Condominium within thirty (30) days (either before or after) of the last Saturday of the calendar year. Additional meetings shall be scheduled as required by each incumbent Board. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or electronic transmission at least three (3) days prior to the day named for such meeting.

4.9 Special Meetings. Special meetings of the Board may be called by the President, or must be called by the Secretary at the written request of one-third of the Directors. Not less than two (2) days notice of a special meeting shall be given each director, personally or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting.

4.10 Notice.

Meetings of the Board of Directors at which a quorum of the Board is present shall be open to all unit owners. Any unit owner may tape record or videotape meetings of the Board of Directors. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The Division shall adopt reasonable rules governing the tape recording and videotaping of the meeting. The Association may adopt written reasonable rules governing the frequency, duration, and manner of unit owner statements. Adequate notice of all meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the condominium property at least 48 continuous hours preceding the meeting except in an emergency. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the members of the Board. Such emergency action shall be noticed and ratified at the next regular meeting of the Board. However, written notice of any meeting at which nonemergency special assessments, or at which amendment to rules regarding unit use, will be considered shall be mailed, delivered, or electronically transmitted to the unit owners and posted conspicuously on the condominium property not less than 14 days prior to the meeting. Evidence of compliance with this 14-day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the Association. Upon notice to the unit owners, the Board shall by duly adopted rule designate a specific location on the condominium property or Association property upon which all notices of Board meetings shall be posted. If there is no condominium property or association property upon which notices can be posted, notices of Board meetings shall be mailed, delivered, or electronically transmitted at least 14 days before the meeting to the owner of each unit. In lieu of or in addition to the physical posting of notice of any meeting of the Board of Directors on the condominium property, the Association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the Condominium Association. However, if broadcast notice is used in lieu of a notice posted physically on the condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. Notice of any meeting in which regular assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments. Meetings of a

committee to take final action on behalf of the Board or make recommendations to the board regarding the Association budget are subject to the provisions of this paragraph. Meetings of a committee that does not take final action on behalf of the Board or make recommendations to the Board regarding the Association budget are subject to the provisions of this section, unless those meetings are exempted from this section by the bylaws of the Association. Notwithstanding any other law, the requirement that Board meetings and committee meetings be open to the unit owners is inapplicable to meetings between the Board or a committee and the Association's attorney, with respect to proposed or pending litigation, when the meeting is held for the purpose of seeking or rendering legal advice.

4.11 Notice Waiver. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. If all Directors are present at a meeting, no notice shall be required and any business may be transacted at such meetings.

4.12 Director Quorum. A quorum shall consist of a majority of all Directors. Members of the Board of Directors may participate in any meeting of the Board, or meeting of an executive or other committee, by means of a conference telephone or similar communicative equipment. Participation by such means shall be deemed equivalent to presence in person at a meeting.

4.13 Required Vote. The acts approved by a majority of those Directors present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Condominium Documents or by applicable statutes.

4.14 Assent. A Director who is present at a meeting of the Board shall be deemed to have voted in favor of any action taken, unless he voted against such action or abstained from voting with respect thereto because of asserted conflict of interest.

4.15 Adjourned Meetings. If at any meeting of the Board of Directors there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting, provided a quorum is present, any business that might have been transacted at the meeting originally called may be transacted without further notice.

4.16 Presiding Officer. The President of the Association, or in his absence, the Vice-President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by majority vote of those present. The presiding officer shall finally decide all questions of parliamentary procedure at meetings of the Board.



4.17 Powers and Duties of Board of Directors. All powers and duties granted to the Association by Florida Law, as modified and explained in the Declaration of Condominium, Articles of Incorporation, and these By-Laws, shall be exercised by the Board of Directors, subject to approval or consent of the unit owners only when such is specifically required.

4.18 Directors' Fees. No compensation or fees shall be paid to any Director for service as a Director.

4.19 Reimbursement of Expenses. Directors may be reimbursed for any reasonable expenses incurred for the benefit of the Association upon approval of the President, or in the case of expenditures by the President, upon approval of the Vice-President. The maximum reimbursable expenses in any one calendar year per director shall be One Hundred Dollars (\$100.00).

4.20 Committees. The Board of Directors may appoint from time to time such standing or temporary committees as the Board may deem necessary and convenient for the efficient and effective operation of the condominium. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee.

4.21 Failure to Elect Director Quorum. If the Association and the Board of Directors fail to fill vacancies on the Board of Directors sufficient to constitute a quorum, any unit owner may apply to the circuit court within whose jurisdiction the condominium is situated for the appointment of a receiver to manage the affairs of the Association, in a manner prescribed by Florida law. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs, and attorney's fees. The receiver shall have all the powers and duties of a duly constituted Board of Directors and shall serve until the Association fills vacancies on the Board sufficient to constitute a quorum.

4.22 Minutes of Meetings. The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by unit owners or their authorized representative and Board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years. Unit owners and their authorized representatives shall have the right to make written notations from the minutes.

4.23 Order of Business at Directors' Meetings.

The Order of business at meetings of Directors shall be:

- A. Calling of roll
- B. Proof of notice of meeting or waiver of notice
- C. Reading and disposal of any unapproved minutes
- D. Reports of officers and committees
- E. Election of officers (if applicable)
- F. Unfinished business
- G. New business
- H. Adjournment.

4.24 Joinder in Meeting by Approval of Minutes. A Director may join in the action of a meeting by signing and concurring in the minutes of that meeting. The concurrence, however, shall not constitute the presence of that Director for the purpose of determining a quorum.

## 5. OFFICERS.

5.1 Elections and Officers. The executive officers of the Association shall consist of a President, Vice-President, Treasurer and Secretary, all of whom shall be elected annually by the Board of Directors at their organizational meeting. The President and Vice President must be Directors. The Treasurer and Secretary need not be Directors, but must be either members of the Association, or the spouse of such a member, or the domestic partner of a member who resides with the member as a single housekeeping unit. Any officer may be removed with or without cause by vote of a majority of all Directors at any meeting. Any person may hold two or more offices, except that the President shall not hold any other office. The Board of Directors shall, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one Vice-President.

5.2 President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the members and Directors, shall be ex-officio a member of all standing committees, shall have general and active management of the business of the Association, shall see that all orders and resolutions of the Board are carried into effect. He shall execute bonds, mortgages, and other contracts requiring seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

5.3 Vice-Presidents. The Vice-Presidents in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties as the Board of Directors shall prescribe.

5.4 Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of the members and shall record all votes and the minutes of all proceedings in a book to be kept for the purpose, and shall perform like duties for standing committees when required. He shall give, or cause to be given, notice of all meetings of the members and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. He shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it and, when so affixed, it shall be attested by his signature or the signature of the Assistant Secretary. The Secretary shall be responsible for the proper recording of all duly

adopted amendments to the condominium documents. Any of the foregoing duties may be performed by an Assistant Secretary, if one has been designated.

**5.5 Treasurer.** The Treasurer shall have the custody of the Association funds and securities and shall keep full and accurate accounts of receipts and disbursements, and shall deposit all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. He shall disburse the funds of the Association, taking proper vouchers for such disbursements, and shall render to the President and Directors, at meetings of the Board, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if one has been designated.

**5.6 Compensation of Officers.** No compensation shall be paid to officers of the Association for their services as officers. This provision does not preclude the Board of Directors from employing officers as employees of the Association.

**6. FISCAL MATTERS.** The provisions for fiscal management of the Association set forth in the Declaration of Condominium shall be supplemented by the following provisions:

**6.1 Budget.** At their regular end-of-year meeting, the Board of Directors shall adopt a proposed annual budget for common expenses for the next fiscal year. A copy of the proposed budget and a notice stating the date and time of the meeting shall be mailed to, delivered to or electronically transmitted to members not less than thirty (30) days prior to that meeting. An officer or manager of the Association, or other person providing notice of such meeting, shall execute an affidavit evidencing compliance with such notice requirement, and such affidavit shall be filed among the official records of the Association. The proposed budget shall be detailed and shall show the amounts budgeted by accounts and expense classifications.

**6.2 Budget Requirements.** The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, when applicable, but not limited to:

- A. Administration of the Association
- B. Management Fees
- C. Maintenance
- D. Rent for commonly used facilities
- E. Taxes on Association Property
- F. Taxes on leased areas
- G. Insurance
- H. Security provisions
- I. Other expenses
- J. Operating capital

- K. Fees payable to the Division of Florida Land Sales and Condominiums
- L. Reserves.

**6.3 Reserves for Capital Expenditures and Maintenance.** In addition to annual operating expenses, the proposed budget must include a general reserve account or reserve accounts for capital expenditures and deferred maintenance so as to provide for items which include, but are not limited to, the following: roof replacement, building painting, pavement resurfacing, and any other item for which the deferred maintenance expense or replacement cost exceeds \$10,000.00. The amount to be reserved shall be computed by a formula based upon estimated life and replacement cost or deferred maintenance expense of each item. The Association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. These reserves shall be funded unless the members subsequently determine by majority vote of those present in person or by proxy at a duly called meeting to fund no reserves or less than adequate reserves. If a meeting of the unit owners has been called to determine whether to waive or reduce the funding of reserves, and no such result is achieved or a quorum is not attained, the reserves as included in the budget shall go into effect. Reserves funds and any interest accruing thereon for the above-stated purpose may not be spent for other purposes unless the expenditure is first approved by a majority of the owners present and voting at a duly called meeting.

**6.4 General Maintenance Reserves.** In addition to the statutory reserves provided in 6.3 above, or in place of them if the members so vote, the Board may establish one or more additional reserve accounts for general operating expenses, repairs, minor improvements or deferred maintenance. The purpose of the reserves is to provide financial stability and to avoid the need for special assessments on a frequent basis. The amounts proposed to be so reserved shall be shown in the proposed annual budget each year. These funds may be spent for any purpose.

**6.5 Assessments.** All regular annual assessments shall be paid in quarterly installments, in advance, on the first day of each quarter. If an annual budget has not been adopted at the time a quarterly installment is due, it shall be presumed that the amount of such installment is the same as the preceding quarterly payment, and payments shall be continued at such rate until a budget is adopted and pro rata assessments are calculated, at which time any overage or shortage shall be added or subtracted from each unit's next due quarterly installment.

**6.6 Assessments and Amended Budget.** If the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board of Directors. Unpaid assessments for the remaining portion of the year for which an amended assessment is made shall be payable in as many equal installments as there are installment payment dates remaining in the budget year as of the date of the amended assessment. The budget shall not be amended for emergency or special nonrecurring expenses.

6.7 Special Assessments. Special assessments may be made when necessary to meet unusual, unexpected, emergency, or non-recurring expenses, or for such other purposes as are authorized by the Declaration of Condominium and these By-Laws. Special assessments are due on the day specified in the resolution of the Board approving such assessment.

6.8 Fidelity Bonds. The Treasurer and all other officers who are authorized to control and disburse funds, and all Directors and employees of the Association handling or responsible for Association funds, shall be bonded in such amounts as may be required by law. The premiums on such bonds shall be paid by the Association.

6.9 Financial Information. Within 90 days after the end of the fiscal year, the Association shall prepare and complete, or contract for the preparation and completion of, a financial report for the preceding fiscal year. Within 21 days after the final financial report is completed by the Association or received from the third party, but not later than 120 days after the end of the fiscal year, the Association shall mail to each unit owner at the address last furnished to the Association by the unit owner, or hand deliver to each unit owner, a copy of the financial report or a notice that a copy of the financial report will be mailed or hand delivered to the unit owner, without charge, upon receipt of a written request from the unit owner. Financial reports for the Sandcastle II Condominium Association shall include an audited financial statement, unless waived as provided below.

If approved by a majority of the voting interests present at a properly called meeting of the Association, the Association may prepare or cause to be prepared a report of cash receipts and expenditures, a compiled financial statement, or a reviewed financial statement in lieu of an audited financial statement. Such meeting and approval must occur prior to the end of the fiscal year and is effective only for the fiscal year in which the vote is taken.

6.10 Audits. A formal, certified, audit of the accounts of the Association, if required by law, by vote of a majority of the voting interests, or by a majority of the Board of Directors, shall be made by a certified public accountant, and a copy of the audit report shall be available to all members.

6.11 Application of Payments and Co-Mingling of Funds. All payments by a unit owner shall be applied as to interest, delinquencies, costs and attorney's fees, other charges, and general or special assessments in the order that they come due. All funds collected by the Association shall be maintained separately in the Association's name. For investment purposes only, reserve funds may be commingled with operating funds of the Association. Commingled operating and reserve funds shall be accounted for separately, and a commingled account shall not, at any time, be less than the amount identified as reserve funds.

6.12 Fiscal Year. The fiscal year for the Association shall be a calendar year, beginning on the first day of January of each year. The Board of Directors may change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed in the Internal Revenue Code of the United States of America.

7. RULES AND REGULATIONS. The Board of Directors may, from time to time, adopt and amend reasonable rules and regulations governing the maintenance, management and control of the common elements. Copies of such rules and regulations shall be furnished to each unit owner.

#### 8. COMPLIANCE AND DEFAULT; REMEDIES.

8.1 Fines. The Board of Directors may, pursuant to Florida Statute, assess fines against unit owners who commit violations of the condominium documents or Association rules and regulations, or who condone such violations by their family members, guests, or lessees. The fines shall be in an amount deemed reasonable by the Board to deter future violations and shall be in proportion to the seriousness of the offense, but in no event shall exceed the maximum allowable amount under Florida law. No fine shall be imposed until the unit owner has been given notice and an opportunity to be heard before the Board, and the following procedures for imposing a fine are followed:

(A) The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing before other unit owners after reasonable notice of not less than fourteen (14) days, and the notice shall include:

- (1) A statement of the date, time and place of the hearing;
- (2) A statement of the provisions of the Declaration, By-Laws, or rules which have allegedly been violated; and,
- (3) A short and plain statement of the matters asserted by the Association.

(B) The party against whom the fine may be levied shall have a reasonable 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 Association shall be empowered to collect fines assessed hereunder in the same manner as any assessment for common expenses but shall not have the right to impose a lien on the unit for the enforcement of payment.

8.2 Correction of Health and Safety Hazards. Any violations which are deemed by the Board of Directors to be a hazard to the public health or safety may be corrected immediately as an emergency matter by the Association and the cost thereof shall be charged to the unit owner as a specific item, which charge may be enforced by a lien

against said unit with the same force and effect as if the charge were a part of the common expenses.

8.3 Voluntary Binding and Mandatory Non-binding Arbitration and Litigation. In the event of a dispute between one or more unit owners and/or the Association arising from the operation of the condominium, the parties may submit the dispute to voluntary binding arbitration under the Florida Statutes and/or rules of the Division of Florida Land Sales and Condominiums. Alternatively, the parties may seek redress of their grievances in a court of Law, provided that they first submit the matter to mandatory non-binding arbitration pursuant to Florida Statute Chapter 718. The prevailing party in any voluntary arbitration or court litigation shall be entitled to all attorney's fees and costs.

8.4 Availability of Remedies. Each member, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of violations regardless of the harshness of the remedy utilized by the Association and regardless of the availability of other legal remedies. It is the intent of all members to give the Association methods and procedures which will enable it to operate on a businesslike basis, to collect those monies due it and to preserve the majority's right to enjoy the condominium property free from unreasonable restraint and annoyance.

8.5 Complaints By Unit Owners. When a Unit Owner files a written complaint by certified mail with the Board of Administration (Directors), the Board shall respond in writing to the Unit Owner within thirty (30) days of receipt of the complaint, and in the response shall either give a substantive response, notify the complainant that a legal opinion has been requested, or notify the complainant that advice from the Division has been sought.

9. AMENDMENT OF BY-LAWS. Amendments to these By-Laws shall be proposed and adopted in the following manner:

9.1 Initial Consideration. Amendments to these By-Laws shall be proposed by a majority of the Board or upon petition of not less than one-third (1/3) of the unit owners by instrument, in writing, signed by them.

9.2 Procedure. Upon any amendment or amendments to these By-Laws being proposed by said Board or unit owners, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall, thereupon determine which of the methods shown in 9.3 below and Section 3.12 of these By-Laws shall be used for voting. The appropriate notices and copies of the proposed amendments shall be mailed to the members not less than thirty (30) days after transmittal to the President.

**9.3 Requisite Voting Requirements.** Except as otherwise provided by law, or by specific provision of the Condominium Documents, these By-Laws may be amended by concurrence of two-thirds (2/3) of the voting interests present and voting at any annual or special meeting provided that notice of any proposed amendment has been given to all the members in accordance with law. Amendments may be adopted without a meeting by following the procedures set forth in Section 3.12 of these By-Laws.

**9.4 Certificate.** A copy of each amendment shall be attached to a certificate stating that the amendment was duly adopted, which certificate shall be executed by officers of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Collier County, Florida.

**9.5 Defective Condominium Documents and Curative Provisions.** The Association or a unit owner may petition the circuit court having jurisdiction in the county in which the condominium property is situated to correct an error or omission in the Declaration or any other documents required to establish the condominium, affecting its valid existence, and which errors or omissions are not correctable by the amendment procedures in the Declaration of Condominium, Florida Statute 718.

## 10. COMPLIANCE AND DEFAULT.

**10.1 Violations, Notice, Actions.** In the case of a violation (other than the nonpayment of an assessment) by a unit owner of any of the provisions of the Act, the Declaration, the Articles, these By-Laws or any lawfully adopted rules and regulations, the Association by direction of its Board of Directors may transmit to the unit owner by certified mail, return receipt requested, a notice of the violation. If the violation shall continue for a period of thirty (30) days from the date of the notice, the Association shall have the right to treat the violation as an intentional and material breach of the provision cited in the notice. It then, if it chooses to proceed and if required under Florida law, shall submit the matter to mandatory non-binding arbitration before the Division of Florida Land Sales, Condominiums, and Mobile Homes. If arbitration is not required by law, or at the conclusion of said arbitration if required, the Association may, at its option, take the following actions:

- A. File an action to recover for its damages on behalf of the Association or on behalf of other unit owners.
- B. File an action for injunctive relief requiring the offending unit owner to take or desist from taking certain actions.
- C. File an action for both damages and injunctive relief.

A unit owner may bring an action against the Association for damages, injunctive relief, or both, if the Association fails to comply with the provisions of the Act, the Declaration, the Articles, these By-Laws or the Rules and Regulations, provided, however, if required by law, the matter shall first be submitted to mandatory non-binding arbitration



before the Division of Florida Land Sales, Condominiums, and Mobile Homes.

10.2 Attorney's Fees. In any action brought pursuant to the provisions of 10.1 above, the prevailing party is entitled to recover reasonable attorney's fees.

10.3 No Waiver of Rights. Neither a unit owner nor the Association may waive a provision of the Act if that waiver would adversely affect the rights of a unit owner or the purposes of the provision, except that unit owners or Board members may waive notice of any specific meeting in writing.

10.4 Liability Survives Membership Termination. Termination of membership in the Association shall neither relieve or release a former member from any liability or obligation incurred with respect to the condominium during the period of membership, nor impair any rights or remedies that the Association may have against the former member arising out of his membership and his covenants and obligations incident to that membership.

## 11. MISCELLANEOUS.

11.1 Gender. Whenever the masculine or singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires. Furthermore, whenever the context permits or requires, the singular shall include the plural and the plural shall include the singular.

11.2 Severability. Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

11.3 Priorities in Case of Conflict. In the event of conflict between or among the provisions of any of the following, the order of priorities shall be, from highest priority to lowest:

- A. Florida Statute 718.
- B. The Declaration of Condominium.
- C. The Articles of Incorporation.
- D. These By-Laws.
- E. Association Rules and Regulations.

11.4 Roster of Unit Owners and Mortgagees. Each unit owner shall file with the Association a copy of the Deed or other instrument showing his ownership, together with a copy of any mortgage on his unit and any satisfaction of that mortgage. The Association shall maintain these documents in a suitable binder for reference as required in the exercise of its powers and duties.

11.5 Cable Television. The Board of Directors of THE SANDCASTLE II CONDOMINIUM ASSOCIATION, INC. is specifically granted the power, authority and authorization to negotiate on behalf of the Association,

cable television service bulk agreements and to assess each and every serviceable individual condominium, unit a sum of money due each quarter in advance based upon the terms of any such agreement for so long as said agreements are in effect. The contract shall be for a term of not less than 2 years.

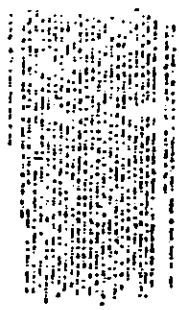
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RECORDS SECTION

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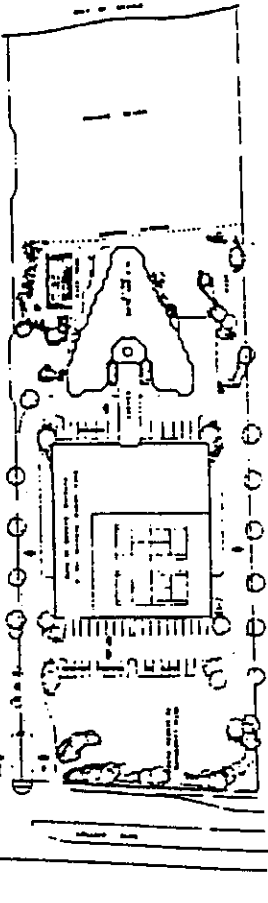
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Certificate of Architect: The undersigned,  
being a licensed and registered architect,  
does hereby certify that a survey was made  
of the lands as shown hereon and further to  
certify these plans designated as Exhibit  
consisting of Sheet 11 then 11 include together  
with the reading of the "Detailed Plan"  
of Official Record Book of Collier County,  
State of Florida, first representation of the  
same, in its Department, and there can be  
a permanent from the identification, location,  
dimensions and size of the common elements  
and of each well contained herein.



COMMON AREAS  
FOOT OFFICE  
SUN DECK  
TENNIS COURTS  
IMPROVED PARKING SPACES

UNIMPROVED PARKING SPACES  
CONCRETE PARKING SPACES 1810

THE SANDCASTLE II  
SITE PLAN

R. E. McHugh  
Architect

NOTE

- (1) All structures are prepared
- (2) Location of 16 story concrete
- (3) minimum pile, 3 feet above
- (4) existing is based on 11-11-1977
- (5) above sea level - 108'-0"
- (6) Parking stall 1810 spaces 13
- (7) alternative, 1810 spaces 13
- (8) per call subdivision number.

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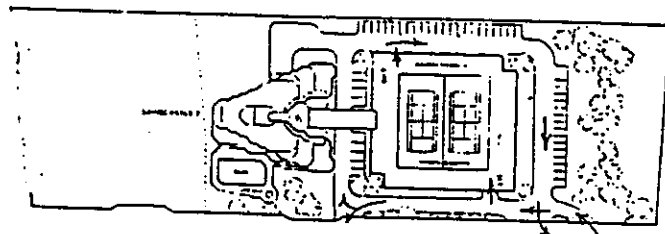
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Motor Vehicle Traffic Patterns

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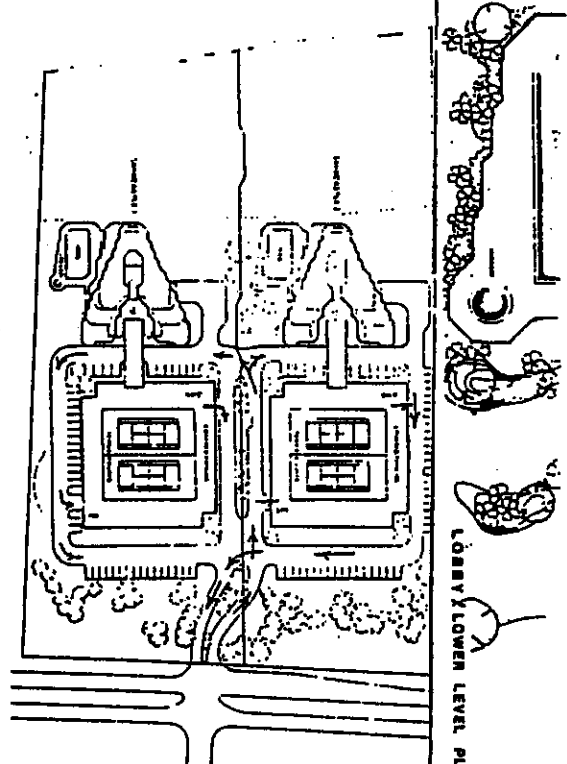
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Motor Vehicle Traffic Pattern

LOBBY LOWER LEVEL PLAN

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United Commerce  
Development  
Tomball Storage 190  
Enclosed Parking 181

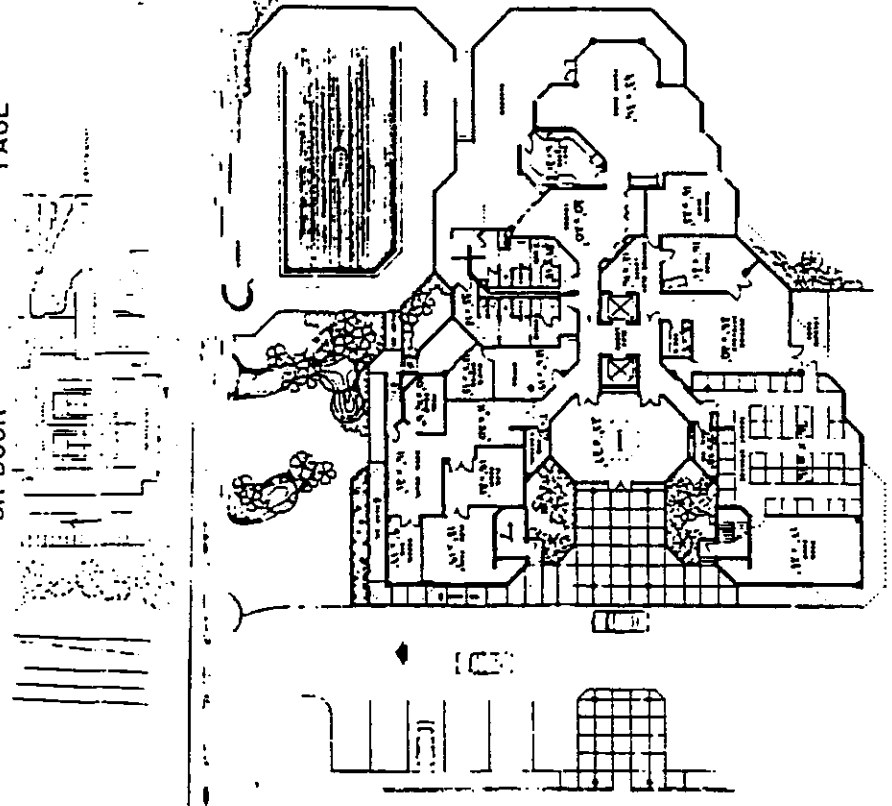
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COMMON ELEMENTS:  
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 SUN DECK  
 BAR/BITCHEN  
 LOUNGE  
 SAUNA  
 JACUZZI  
 Limited Common Elements:  
 Total square feet





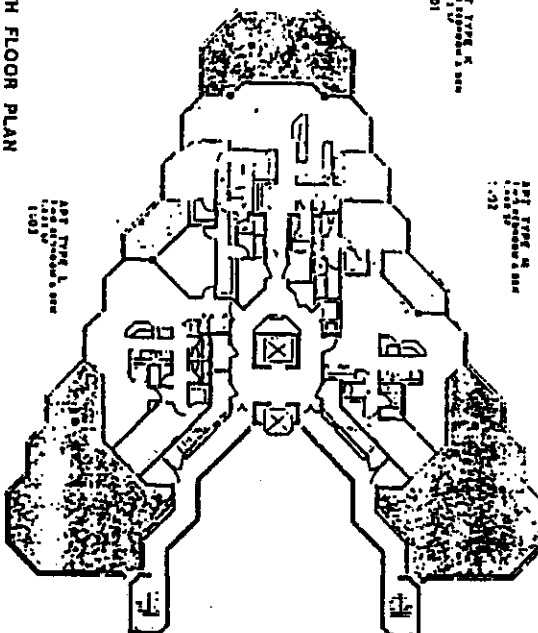


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14TH FLOOR PLAN



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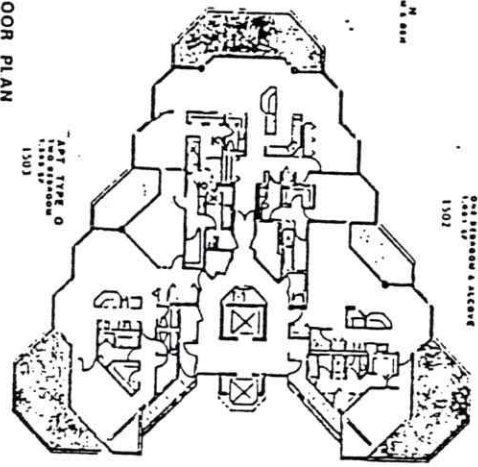
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15TH FLOOR PLAN



SANDCASTLE  
APARTMENT NUMBERING SYSTEM

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- 1301 - APT. TYPE "A" ON TYPICAL FLOOR PLAN
- 1401 - APT. TYPE "A" ON 13th FLOOR PLAN
- 1501 - APT. TYPE "A" ON 14th FLOOR PLAN
- 1601 - APT. TYPE "A" ON 15th FLOOR PLAN
- 102, 202, 402, 502, 602, 702, 802, 902, 1002, 1102, 1202
- 1302 - APT. TYPE "B" ON TYPICAL FLOOR PLAN
- 1402 - APT. TYPE "B" ON 13th FLOOR PLAN
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- 1304 - APT. TYPE "D" ON TYPICAL FLOOR PLAN
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- 1307 - APT. TYPE "G" ON TYPICAL FLOOR PLAN
- 1407 - APT. TYPE "G" ON 13th FLOOR PLAN
- 1507 - APT. TYPE "G" ON 14th FLOOR PLAN
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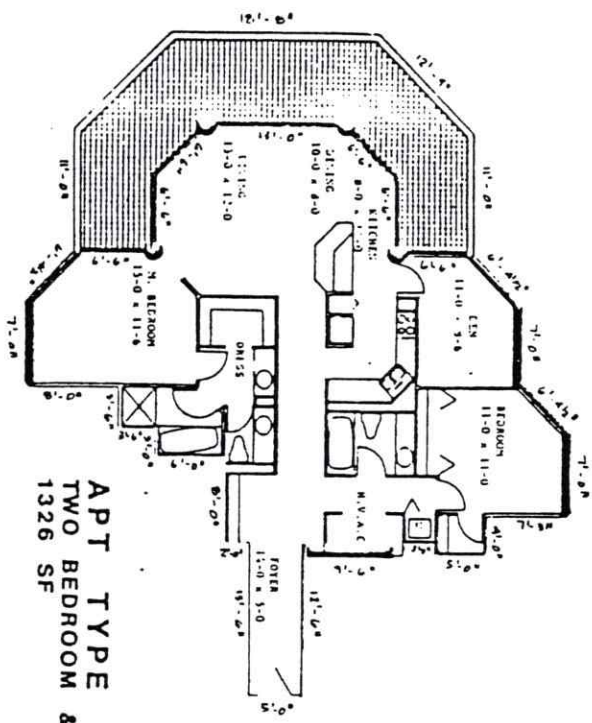
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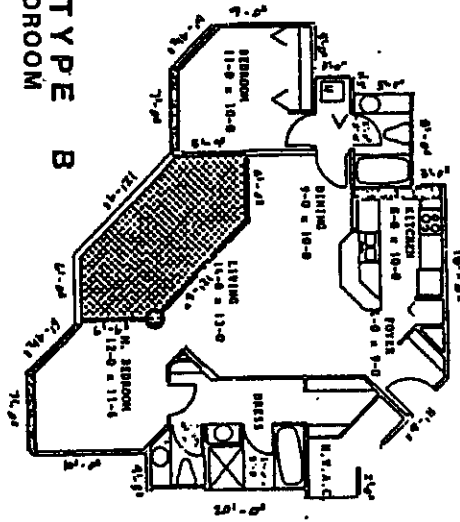
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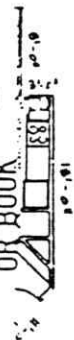
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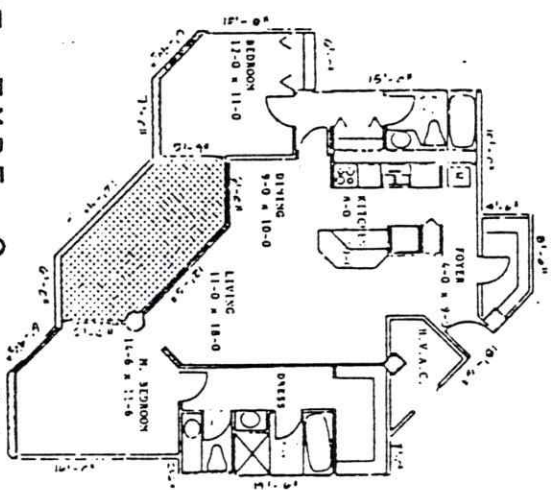
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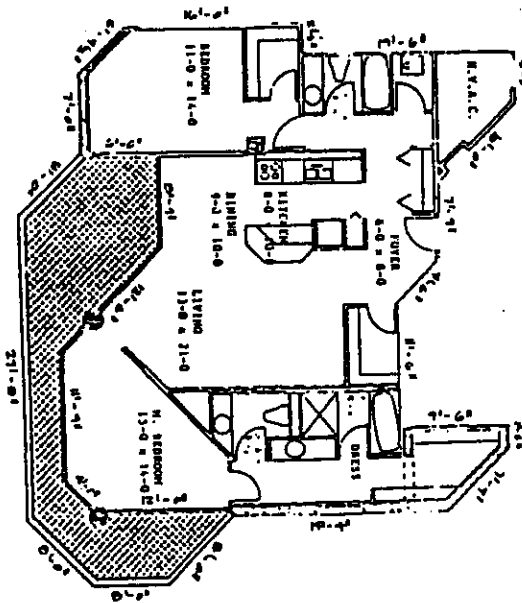
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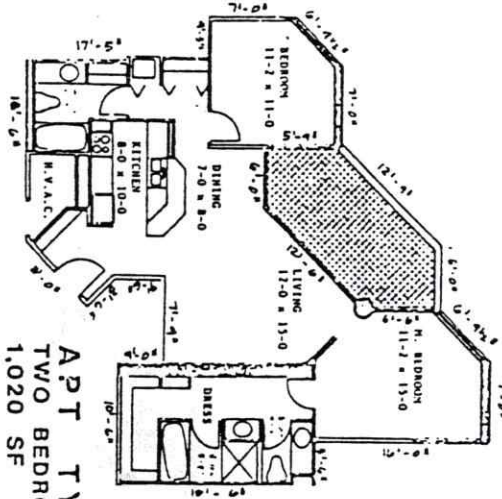


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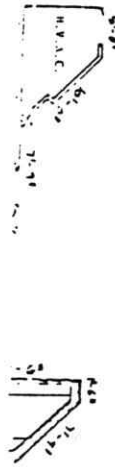
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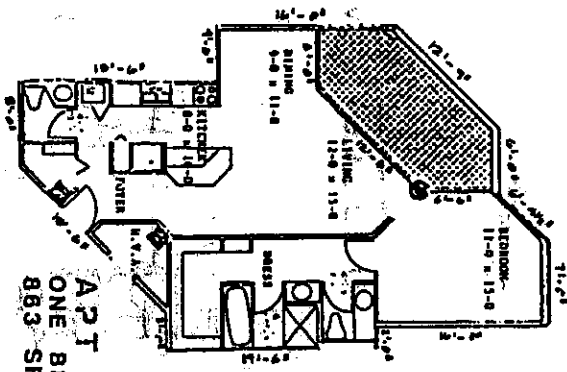
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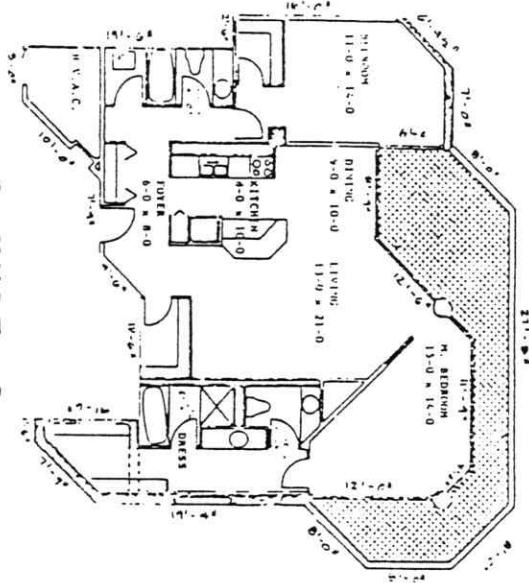
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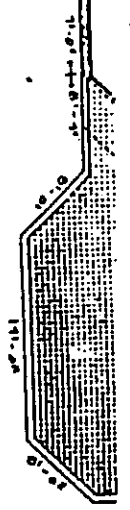
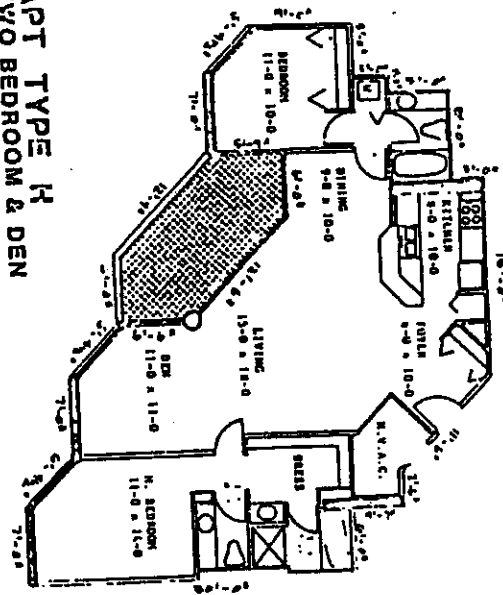
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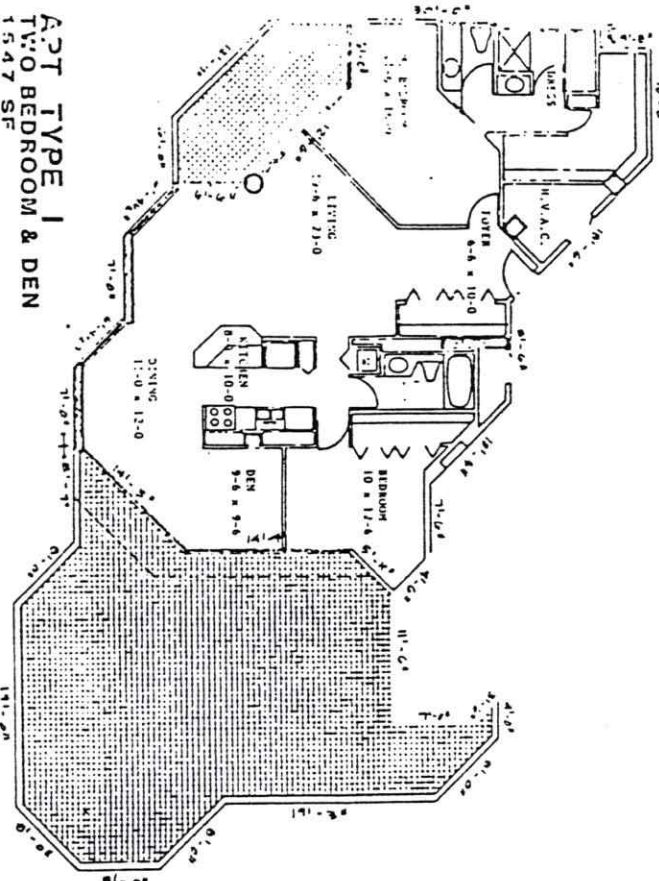
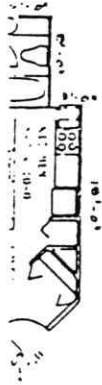
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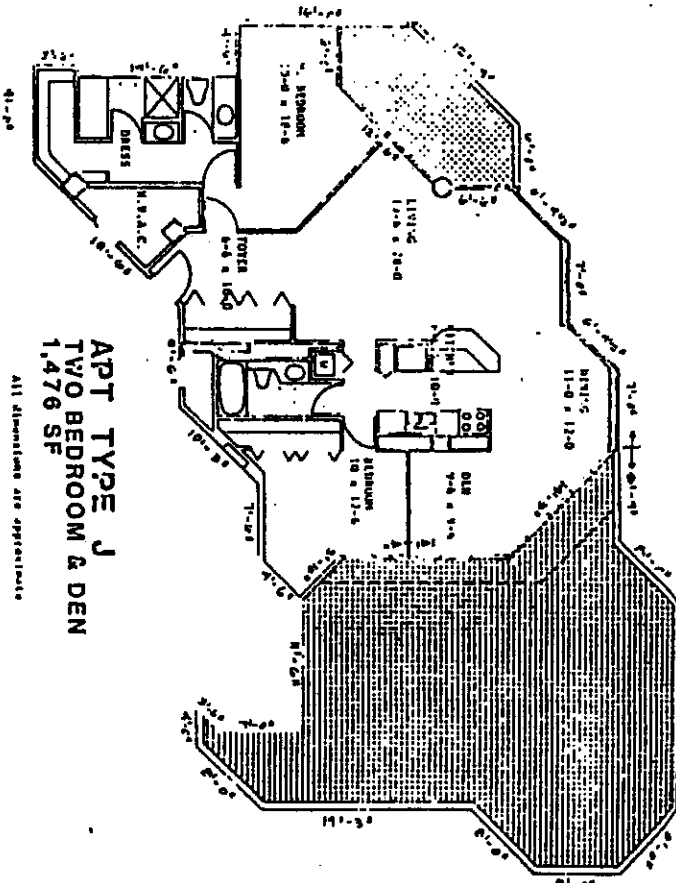
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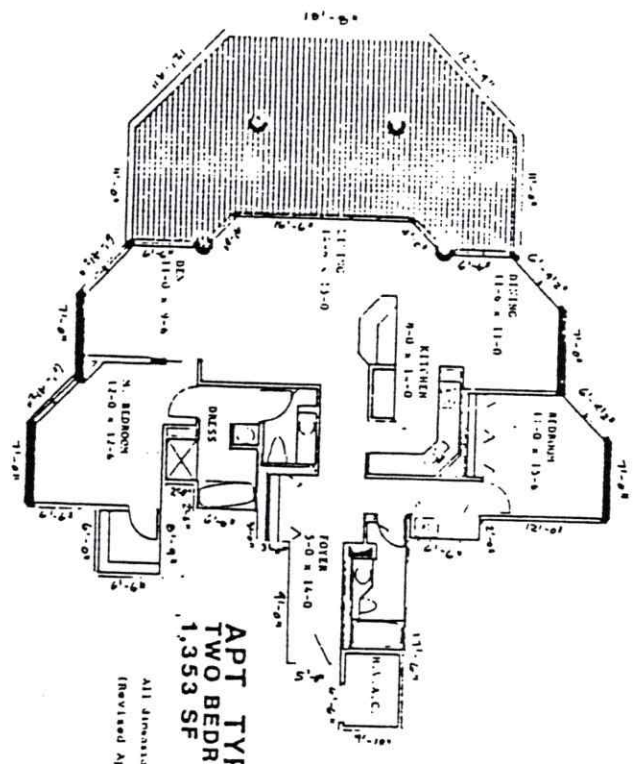


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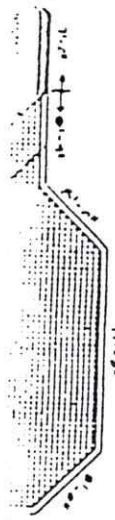
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**APT TYPE K**  
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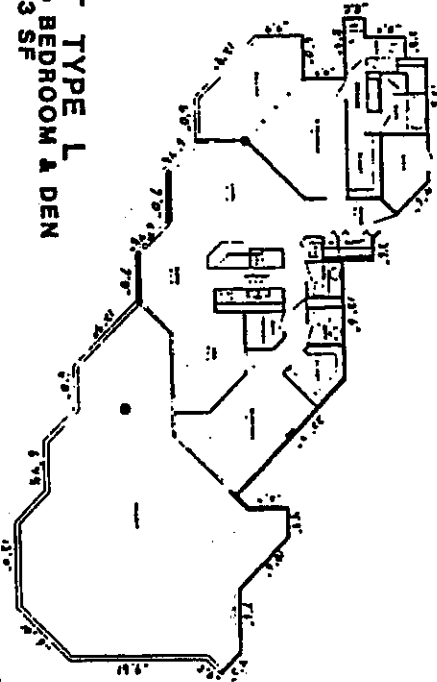
001551  
OR BOOK ✓

001757  
PAGE ✓

All dimensions are approximate

**APT TYPE L  
TWO BEDROOM & DEN  
1,533 SF**

All dimensions are approximate

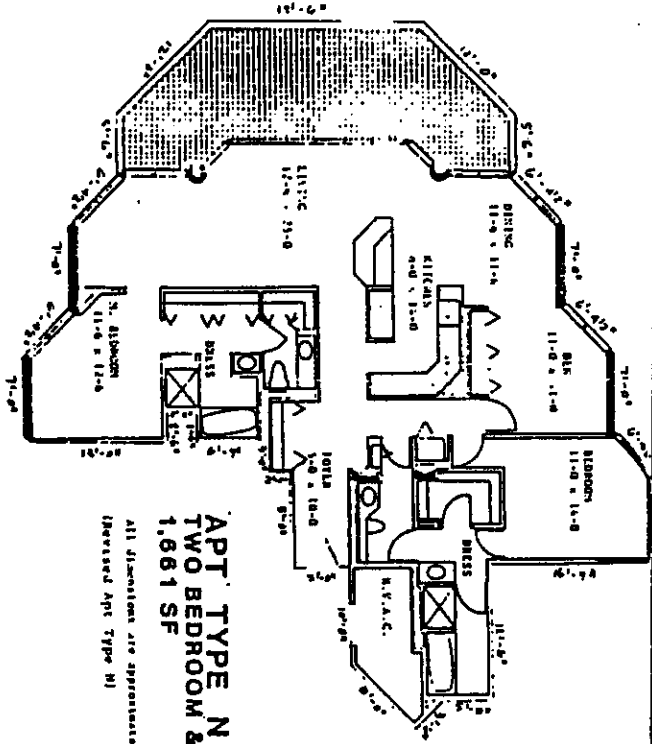






001002  
OR BOOK

000923  
PAGE



**APT. TYPE N**  
**TWO BEDROOM & DEN**  
**1,661 SF**  
 All dimensions are approximate  
 (Revised Apt. Type N)

**APT. TYPE U**  
**TWO BEDROOM**  
**1,565 SF**  
 All dimensions are approximate



U01759 ✓  
 PAGE

100100 ✓  
 OR BOOK



001000  
OR BOOK

000925  
PAGE

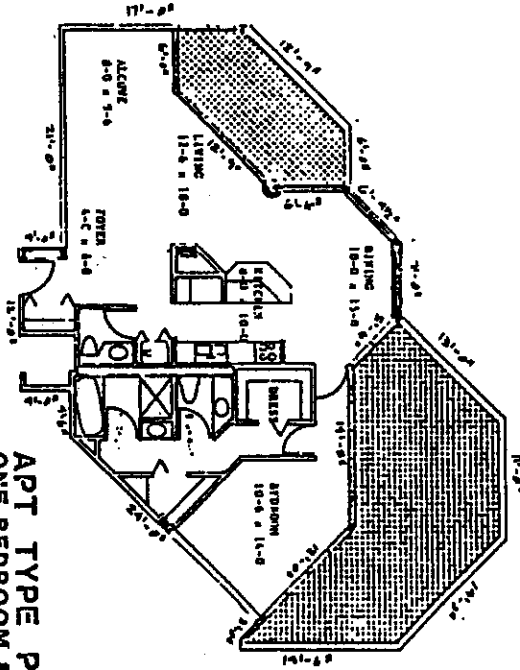
1111551  
OR BOOK ✓

001761  
PAGE ✓

1,883 SF

All dimensions are approximate

OR: 2404 PG: 1634



**APT TYPE P  
ONE BEDROOM & ALCOVE  
1,081 SF**  
All dimensions are approximate

✓

✓

1925  
PAGE

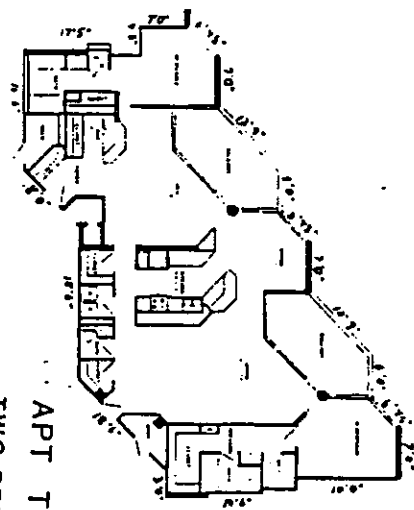
001000  
OR BOOK

000926  
PAGE

001551  
OR BOOK

001762  
PAGE

\*\*\* OR: 2404 PG: 1635 \*\*\*



APT TYPE Q  
TWO BEDROOM & DEN  
1,883 SF  
All dimensions are approximate



MEASURED AND FOR THE  
PURPOSE OF THIS  
DRAWING ONLY

1/2" = 1'-0"

RECORDED in OFFICIAL RECORDS of COLLIER COUNTY, FL  
07/30/2004 at 08:20AM DWIGHT H. BROCK, CLERK

RBC FEE 10.00  
COPIES 1.00

Instrument prepared by and return to:  
Steven M. Falk, Esq.  
Roetzel & Andress, A Legal Professional Association  
850 Park Shore Drive  
Third Floor  
Naples, FL 34103  
(941) 649-6200

Retn:  
SANDCASTLE II CONDO ASSOC  
720 S COLLIER BLVD  
MARCO ISLAND FL 34145

(Space above line for recording information)

**CERTIFICATE**

THE UNDERSIGNED, being the duly elected and acting President of The Sandcastle II Condominium Association, Inc., a Florida corporation, not for profit, makes this certification pursuant to Section 718.112(2)(1), Florida Statutes. Two-thirds (2/3) of the voting interests in the Association have voted, pursuant to Written Consents, to forego retrofitting of units with a fire sprinkler system or engineered life safety system. The Declaration of Condominium of The Sandcastle II, A Condominium was originally recorded at O.R. Book 1000, Pages 851 et seq., Public Records of Collier County, Florida.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand and the seal of the corporation.

THE SANDCASTLE II CONDOMINIUM  
ASSOCIATION, INC. (SEAL)

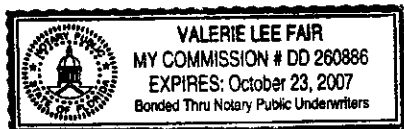
By: Wayne M. Mead, President  
President

Margaret G Mead  
Witness  
Print Name: Margaret G Mead

A. D. [Signature]  
Witness  
Print Name: A. D. [Signature]

STATE OF FLORIDA  
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of July, 2004, by  
, as President of The Sandcastle II Condominium Association, Inc., the corporation described in the foregoing  
instrument, who is personally known to me or who has produced \_\_\_\_\_ as identification



Valerie Lee Fair  
Notary Public, State of Florida  
Valerie Lee Fair  
Printed Name of Notary Public  
Serial Number: DD 260886  
My Commission Expires: 10/23/2007

After Recording Return to:  
Ashley D. Lupo, Esq.  
Roetzel & Andress  
850 Park Shore Drive  
Naples, Florida 34145

Retn:  
ROETZEL & ANDRESS  
850 PARK SHORE DR 3RD FLOOR  
NAPLES FL 34103

(Space above line for recording information)

**CERTIFICATE OF AMENDMENT**

THE UNDERSIGNED, being the duly elected and acting President of The Sandcastle II Condominium Association, Inc., a Florida corporation, not for profit, does hereby certify that at a duly called meeting of the members held on January 17, 2009 where a quorum was present, after due notice, the amendment to the Bylaws of The Sandcastle II Condominium Association, Inc. set forth on Exhibit "A" attached hereto was approved and adopted by the required vote of the membership. The Declaration of Condominium of The Sandcastle II, A Condominium was originally recorded at O.R. Book 1000, Pages 851 et seq., Public Records of Collier County, Florida.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand and the seal of the corporation.

THE SANDCASTLE II CONDOMINIUM  
ASSOCIATION, INC. (SEAL)

By: *Richard Meadows*  
Richard Meadows, President

*Kristina S. Pruyn*

Witness  
Print Name: Kristina S. Pruyn

*Janetta Owens*

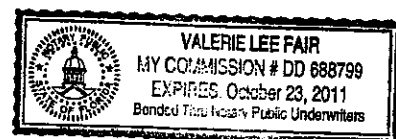
Witness  
Print Name: JANETTA OWENS

STATE OF FLORIDA  
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of January, 2009, by Richard Meadows, as President of The Sandcastle II Condominium Association, Inc., the corporation described in the foregoing instrument, who is personally known to me or who has produced \_\_\_\_\_ as identification

*Valerie Lee Fair*  
Notary Public, State of Florida  
Valerie Lee Fair  
Printed Name of Notary Public  
Serial Number: DD 688799  
My Commission Expires:

(SEAL)



A. Changes to the Association's By-Laws as required by changes to Florida law -

Additions indicated by underlining. Deletions are indicated by ~~strike through~~.  
(Section headings originally underlined in the documents remain underlined.)

**4.1 Number and Terms of Service.** The number of Directors which shall constitute the whole Board of Directors shall be seven (7). The Directors shall be divided into ~~three~~ two groups of as nearly an equal number as possible. Beginning in ~~2002~~ 2009, two (2) Directors shall begin serving ~~three~~ two-year terms, with the ultimate goal of all Directors serving ~~three~~ two-year terms as now required by law, ~~and with no more than three (3) Directors elected at any Annual Meeting.~~

~~Four (4)~~ Three (3) Directors shall be elected at the ~~2002~~ 2009 Annual Meeting, of which two (2) Directors shall be elected to ~~three~~ two-year terms and ~~two (2)~~ one (1) Directors shall be elected to ~~two-year terms~~, a one-year term. The two candidates with the highest number of votes shall serve the ~~three~~ two-year terms; the ~~two~~ candidates with the next highest totals shall serve ~~two-year terms~~, a one-year term. In the event of ties, the tie-breaking criteria will be (in order):

- A. Previous service as an officer of the Condominium Association
- B. Previous service on the Board
- C. Previous service on an official committee of the Condominium Association
- D. Agreement amongst tied candidates
- E. Appointment by the incumbent President.

In ~~2003~~ 2010, three (3) Directors shall be elected to ~~three~~ two-year terms. In ~~2004~~ 2011, ~~two (2)~~ four (4) Directors shall be elected to ~~three~~ two-year terms. In ~~2005~~, two (2) Directors shall be elected to ~~three-year terms~~.

~~A Director who has served four (4) consecutive years from and after the 1997 election, shall be eligible for re-election to the Board (including election to fill a vacancy pursuant to Section 4.4 "Vacancies on the Board" below) only after an interval of one business year (the time between annual elections) from the expiration of such Director's fourth consecutive full year of service. Any Director elected at or after the 2002 election, who has served for five (5) consecutive years or longer, shall be eligible for re-election to the Board (including election to fill a vacancy pursuant to Section 4.4 "Vacancies on the Board" below) only after an interval of one business year.~~

EXHIBIT A



After Recording Return to:  
Ashley D. Lupo, Esq.  
Roetzel & Andress  
850 Park Shore Drive  
Naples, Florida 34103

**CERTIFICATE OF AMENDMENT**

THE UNDERSIGNED, being the duly elected and acting President of the Sandcastle II Condominium Association, Inc., a Florida Corporation, not for profit, does hereby certify that at a duly called meeting of the members held on March 28, 2015, where a quorum was present, after due notice, the amendment of the Declaration of Condominium of the Sandcastle II Condominium Association, Inc., set forth in Exhibit "A" attached hereto was approved and adopted by the required vote of the membership. The Declaration of Condominium of the Sandcastle II, A Condominium was originally recorded at O.R. Book 1000, Pages 851 et seq., Public Records of Collier County, Florida.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand and the seal of the corporation.

THE SANDCASTLE II CONDOMINIUM  
ASSOCIATION, INC. (SEAL)

By: Richard S. Meadows  
Richard S. Meadows, President

Kristina S. Pruyn  
Witness  
Print Name: Kristina S. Pruyn

Cynthia Dasher Schmitt  
Witness  
Print Name: Cynthia Dasher Schmitt

STATE OF FLORIDA  
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 20<sup>nd</sup> day of April, 2015, by Richard S. Meadows as President of the Sandcastle II Condominium Association, Inc., the corporation described in the foregoing instrument, who is personally known to me or who has produced \_\_\_\_\_ as identification.

Cynthia Dasher Schmitt  
Notary Public, State of Florida

Cynthia Dasher Schmitt  
Printed Name of Notary Public

Serial Number #FF 094927

My Commission Expires: 4/23/18



CYNTHIA DASHER SCHMITT  
MY COMMISSION # FF 094927  
EXPIRES: February 23, 2018  
Bonded Thru Budget Notary Services

(SEAL)

## Exhibit "A"

Words added to the following subsections of the Declaration of Condominium are indicated by underscore (sample). No words have been deleted.

### 10. ASSESSMENTS AND LIENS

10.8 Application of Payments; Failure to Pay; Interest. Assessments and installments thereon paid on or before ten (10) days after the date due shall not bear interest, but all sums not so paid shall bear interest at the rate authorized by the Board and allowed by law, calculated from the date due until paid. In addition, a late fee may be assessed up to the maximum allowed by Florida law. Assessments and installments thereon shall become due, and the unit owner shall become liable for said assessments or installments, on the date established in the By-Laws or otherwise set by the Association for payment. All payments on account shall be applied to interest, late fees, court costs and attorney's fees, other charges, and regular or special assessments, in the order in which they come due. The Association may refuse to accept a partial payment which bears a restrictive endorsement and such will be the equivalent of no payment. The Association reserves the right to engage collection agencies and attorneys to collect any balances more than 30 days delinquent.

### 11. MAINTENANCE AND LIMITATION UPON IMPROVEMENT:

#### 11.1 Units.

#### B. By the Unit Owner.

(10) Major unit renovations which include demolition/removal work such as the replacement of tile, removal or installation of partitions, grinding of ceilings or floors, replacement of exterior doors or windows, replacement of built-in plumbing fixtures, replacement of cabinetry and any other activities which generate significant construction noise may only be performed between May 1 and November 30 of any year. Minor alterations such as painting, appliance replacement, installation of window treatments, etc. may be performed all year during normal contractor hours. Emergency repairs may be made at any time, but only with the expressed approval of the Board or its agents or assignees, and only to bring the unit to a livable condition.

### 12. USE RESTRICTIONS:

12.14 No Use of Common Electric. No owners, members of owners' families, tenants, guests, contractors, staff members or outside parties may use the electricity paid for as

a common expense to charge or recharge electric vehicles or equipment not owned or leased by the Sandcastle II Condominium Association.

## 15. LEASING OF UNITS

15.2 Term of Lease and Frequency of Leasing. No unit may be leased for a term of less than thirty (30) days or one calendar month, whichever is less. No leases may exceed one year in length. However leases may be renewed for periods of up to one year, with the approval of the Board or its agents or assignees, after a new lease application and copy of the proposed new lease are submitted. Lease renewals are subject to the same rules, restrictions and procedures governing new leases.

## 16. INSURANCE

16.6 Insurance Trustee - Shares of Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, the unit owners and their mortgagees, as their interests may appear, and shall provide that all proceeds covering property losses which exceed the amount of the insurance deductible shall be paid to an Insurance Trustee which shall be designated by the Board and which shall be a bank or trust company in Florida with trust powers or a duly appointed, fully bonded individual specifically selected by the Board and whose actions shall be bound by the Declaration of Condominium and Florida law. Insurance proceeds in excess of 50% of the maximum bonding limit of any officer, director or other designee of the Association, must be processed by a duly qualified bank or trust company. The insurance trustee shall release funds within 5 business days of the receipt of any request for disbursement of insurance proceeds expressly authorized by the Board of Directors and executed by the President of the Association. Furthermore, the Insurance Trustee shall receive compensation at an hourly rate set by the Board (plus reasonable expenses) for each hour dedicated to Association business. The Insurance Trustees shall not be liable for payment of premiums, the renewal or the sufficiency of policies or the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes stated herein and for the benefit of the unit owners and their mortgagees in the following shares, which shares need not be set forth on the records of the Insurance Trustee: