

This instrument was prepared by:
MARK D. FRIEDMAN, ESQ.
Becker & Poliakoff, P.A.
625 North Flagler Drive – 7th Floor
West Palm Beach, FL 33401
(W-C 112)

**CERTIFICATE OF AMENDMENT TO THE
DECLARATION OF CONDOMINIUM FOR
BERKSHIRE B CONDOMINIUM
AND THE
ARTICLES OF INCORPORATION AND BY-LAWS FOR
CENTURY VILLAGE BERKSHIRE B CONDOMINIUM ASSOCIATION, INC.**

WHEREAS, the **Declaration of Condominium for Berkshire B Condominium** has been duly recorded in the Public Records of Palm Beach County, Florida, in Official Record Book **2002** at Page **783**; and

WHEREAS, the By-Laws for Century Village Berkshire B Condominium Association, Inc. are attached as an exhibit thereto; and

WHEREAS, the **1999 UCO Model Documents Century Village, West Palm Beach Amended Declaration of Condominium for Berkshire B Condominium** has been duly recorded in the Public Records of Palm Beach County, Florida, in Official Records Book **11019** at Page **755**; and

WHEREAS, at a duly called and noticed meeting of the membership of **Century Village Berkshire B Condominium Association, Inc.**, a Florida not-for-profit corporation, held **March 11, 2020**, the Declaration of Condominium, Articles of Incorporation and By-Laws were amended pursuant to the provisions of said Declaration of Condominium, Articles of Incorporation and By-Laws.

NOW, THEREFORE, the undersigned hereby certify that the following Amended and Restated Declaration of Condominium, Amended and Restated Articles of Incorporation and Amended and Restated By-Laws are a true and correct copy of the Amended and Restated Declaration of Condominium, Amended and Restated Articles of Incorporation and Amended and Restated By-Laws adopted by the membership at the above-referenced meeting of the membership of the Association, and that the attached Amended and Restated Declaration of Condominium, Amended and Restated Articles of Incorporation and Amended and Restated By-Laws replace the original Declaration of Condominium, Articles of Incorporation and By-Laws and any amendments thereto. All of the exhibits to the original recorded Declaration of Condominium, Articles of Incorporation and By-Laws which are otherwise referenced in or attached to the attached Amended and Restated Declaration of Condominium, Amended and Restated Articles of Incorporation and Amended and Restated By-Laws remain intact and

unchanged and are hereby incorporated by reference herein as if attached hereto and made a part hereof.

SEE ATTACHED

* * * * *

WITNESS my signature hereto this 3RD day of APRIL, 2020, at West Palm Beach, Palm Beach County, Florida.

**CENTURY VILLAGE BERKSHIRE B
CONDOMINIUM ASSOCIATION, INC.**

[Signature]
Witness

By: [Signature] President

JOHN R. STANILAND
(PRINT NAME)

Stephanie McConnaughay
Witness

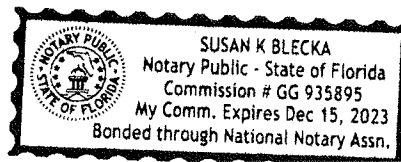
Stephanie McConnaughay
(PRINT NAME)

STATE OF FLORIDA :
COUNTY OF PALM BEACH:

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 3rd day of April, 2020, by Frank La Franchi as President of **Century Village Berkshire B Condominium Association, Inc.**, a Florida not-for-profit corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ as identification and did take an oath.

[Signature] (Signature)

SUSAN K. BLECKA (Print Name)
Notary Public, State of Florida at Large



This instrument was prepared by:
Mark D. Friedman, Esquire
Becker & Poliakoff, P.A.
625 North Flagler Drive – 7th Floor
West Palm Beach, Florida 33401

AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM
OF
CENTURY VILLAGE BERKSHIRE B CONDOMINIUM

NOTE: This document is a substantial rewording of the Declaration of Condominium of Berkshire B Condominium executed by Developer on March 24, 1972, recorded on April 17, 1972, in Official Records Book 2002, Page 783, of the Public Records of Palm Beach County, as amended to this date (hereinafter the "Original Declaration"), except that all Exhibits to the Original Declaration which are not otherwise referenced herein or attached hereto remain unchanged and are hereby incorporated by reference herein as if attached hereto and made a part hereof.

1. INTRODUCTION AND SUBMISSION.

- 1.1 The Land. The real property comprising this condominium located in Palm Beach County, Florida, is more particularly described in Exhibit 1 of the Original Declaration incorporated by reference herein (the "Land").
- 1.2 Submission Statement. The Developer submitted the Land and all improvements thereon to the condominium form of ownership and use in the manner provided for in the Florida Condominium Act as amended from time to time.
- 1.3 Name. The name by which this condominium is to be identified is BERKSHIRE B CONDOMINIUM (hereinafter called the "Condominium").

2. DEFINITIONS. The terms used in this Declaration and its Exhibits shall have the meanings stated in the Condominium Act as follows, unless the context otherwise requires:

- 2.1 "Act" means the Condominium Act (Chapter 718, Florida Statutes) as the same may be amended from time to time.
- 2.2 "Articles" or "Articles of Incorporation" mean the Amended and Restated Articles of Incorporation of the Association, as amended from time to time.
- 2.3 "Assessment" means a share of the funds which are required for the payment of Common Expenses which from time to time is assessed against the Unit Owner.
- 2.4 "Association" or "Condominium Association" means CENTURY VILLAGE BERKSHIRE B CONDOMINIUM ASSOCIATION, INC., a not-for-profit Florida corporation, the entity responsible for the operation and maintenance of the Condominium, and its successors.
- 2.5 "Association Property" means the property, real and personal, in which title or ownership is vested in, or which is dedicated on a recorded plat or leased to, the Association for the use and benefit of its members.
- 2.6 "Board" or "Board of Directors" means the representative body which is responsible for administration of the Association.
- 2.7 "Building" means the structure situated on the Condominium Property in which the Units are located.
- 2.8 "By-Laws" mean the Amended and Restated By-Laws of the Association, as they are amended from time to time.
- 2.9 "Charge" means any legal or equitable indebtedness of a Unit Owner to the Association, or other sums owed to or due to the Association from a Unit Owner, or any cost or expense incurred by the Association on behalf of or because of a Unit Owner, other than Assessments for Common Expenses, which the Unit Owner is obligated to pay to the Association. Said obligations may arise by oral or written contract, by law or in equity, or may be created by these Condominium Documents.

- 2.10 "Committee" means a group of Board members, Unit Owners or Board members and Unit Owners appointed by the Board or the President to make recommendations to the Board.
- 2.11 "Common Elements" means and includes the portions of the Condominium Property which are not included in the Units or Association Property, as defined herein.
- 2.12 "Common Expenses" means: (1) expenses of administration and management of the Condominium Property; (2) expenses of maintenance, operation, protection, repair or replacement of Common Elements and Association Property, as well as those portions of the Units for which the Association is responsible; (3) expenses declared Common Expenses by the provisions of this Declaration or by the By-Laws; (4) any valid charge against the Association or against the Condominium Property; (5) the costs of carrying out the powers and duties of the Association; and (6) all expenses properly incurred by the Association in the performance of its duties, including expenses specified in the Act; (7) all proper charges imposed by the United Civic Organization, its successors and assigns paid proportionately by the Association with other condominium associations of Century Village; (8) any obligations of the Association under the Long Term Lease or to WPRF. Common expenses also include all reserves required by the Act or otherwise established by the Board, reasonable transportation services, the purchase and maintenance of laundry equipment, insurance for directors and officers, road maintenance and operation expenses, in-house communications, security services, and pest control services to the Common Elements, which are reasonably related to the general benefit of the Unit Owners even if such expenses do not attach to the Common Elements or property of the Condominium. The cost of communications services, as defined in Chapter 202, Florida Statutes, as same may be amended from time to time, obtained pursuant to a bulk contract shall also be a common expense, but shall be allocated on a per unit basis, and shall not include any other separate obligations of individual Unit Owners for such services.

Notwithstanding any other term herein to the contrary, Common Expenses as defined in this Declaration shall include the cost and expense of maintaining and operating the canals, lakes and drainage system, including dams and water control devices, serving the entire Century Village, West Palm Beach development ("System"), even if certain elements of System are located off-site and not located within Century Village, West Palm

Beach. United Civic Organization, Inc. ("UCO") is expressly authorized as agent of Association, in conjunction with similar authorization from other condominium associations in Century Village, West Palm Beach, to undertake the responsibility for maintenance of the System, and the expense therefore shall be paid proportionately by the Association with other condominium associations of Century Village, West Palm Beach to UCO.

- 2.13 "Common Surplus" means the amount of all receipts or revenues, including Assessments, rents or profits collected by the Association which exceeds Common Expenses.
- 2.14 "Condominium Parcel" means a Unit together with the undivided share in the Common Elements appurtenant to said Unit; and when the context permits, the term includes all other appurtenances to the Unit.
- 2.15 "Condominium Property" means the lands, leaseholds, improvements and other personal property submitted to Condominium ownership by the Original Declaration, subject to the limitations thereof and exclusions therefrom, and all easements and rights appurtenant thereto intended for use in connection with the Condominium.
- 2.16 "County" means the County of Palm Beach, State of Florida.
- 2.17 "Declaration" or "Declaration of Condominium" means this instrument, as it may be amended from time to time.
- 2.18 "Developer" means the entity identified in the Original Declaration as Declarer.
- 2.19 "Improvements" means all structures and artificial changes to the natural environment (exclusive of landscaping) located on the Condominium Property, including, but not limited to, the Buildings.
- 2.20 "Institutional Mortgagee" means any lending institution having a mortgage lien upon a Unit, including any of the following institutions or entities: (i) a federal or state savings and loan association or bank doing business in the State of Florida or a life insurance company doing business in Florida which is approved by the Commissioner of Insurance of the State of Florida, or bank or real estate investment trust, or a mortgage banking company licensed to do business in the State of Florida, or any subsidiary thereof

licensed or qualified to make mortgage loans in the State of Florida or a national banking association chartered under the laws of the United States of America; or (ii) such other Lenders as the Board shall hereafter designate as such in writing which have acquired a mortgage upon a Unit; or (iii) any "Secondary Mortgage Market Institution" including Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and such other Secondary Mortgage Market Institution as the Board shall hereafter designate as such in writing which has acquired a mortgage upon Units.

- 2.21 "Legal Fees" mean (a) reasonable fees for attorney and paralegal services incurred in negotiation and preparation for litigation, whether or not an action is actually begun, through and including all trial and appellate levels and postjudgment proceedings; and (b) court costs through and including all trial and appellate levels and postjudgment proceedings.
- 2.22 "Lien for Charges" means a lien which is recorded to secure a Charge. There is created by this Declaration a common law and contractual lien to secure payment for any Charge. By way of example, but not limitation, a Lien for Charges exists to secure repayment to the Association when it must remove or reinstall alterations to the Common Elements damaged or altered by Unit Owners, their tenants, family members or guests; or perform a maintenance, repair or replacement responsibility in connection with the Unit Owner's Unit or the Common Elements or Limited Common Elements when the Unit Owner fails to discharge of his/her/their responsibilities; or address emergency situations with regard to any Unit. The Lien for Charges shall be of equal priority to, shall accrue interest and late fees, and shall be foreclosed in the same manner as the Common Expense lien, including the right to recover attorneys' fees, costs and expenses of collection.
- 2.23 "Limited Common Elements" means those Common Elements the use of which is reserved to a certain Unit or Units to the exclusion of other Units, as specified in this Declaration. References herein to Common Elements also shall include all Limited Common Elements unless the context would prohibit or it is otherwise expressly provided. Limited Common Elements shall also include any portion of the Condominium Property which a Unit Owner is required to provide maintenance, repair or replacement at his or her own expense or reimburse the Association for such expense under Article 7 of this Declaration.

- 2.24 "Member" means an Owner who, or which, is a member of the Association as more specifically described in the Articles of Incorporation and Bylaws of the Association.
- 2.25 "UCO" means the United Civic Organization.
- 2.26 "Unit" means a part of the Condominium Property which is subject to exclusive ownership.
- 2.27 "Unit Owner" or "Owner of a Unit" or "Owner" means the record owner of a Unit.
- 2.28 "Utility Services" as used in the Condominium Act and construed with reference to this Condominium and as used in this Declaration, the Articles of Incorporation and By-Laws shall include, but not be limited to, electric power, gas, water, heating, air-conditioning, cable television, internet service, sprinkler, irrigation, drainage, sewage and garbage disposal.

3. DESCRIPTION OF CONDOMINIUM.

- 3.1 Identification of Units. The Condominium Property consists of all Units in the Condominium Building, and other improvements, as set forth in Exhibit No. 1 to the Original Declaration, and for the purpose of identification, all Units in the Building located on said Condominium Property are given identifying numbers and delineated on the Survey Exhibits collectively identified as Exhibit No. 1 attached to the Original Declaration. No Unit bears the same identifying number as does any other Unit. The aforesaid identifying number as to the Unit is also the identifying number as to the parcel. The said Exhibit No. 1 to the Original Declaration also contains a survey of the land, graphic description of the Improvements in which the Units are located, and a plot plan and, together with this Declaration, they are in sufficient detail to identify the location, dimensions and size of the Common Elements and of each Unit, as evidenced by the Certificate of the Registered Land Surveyor attached to the Original Declaration. The legend and notes contained within said Exhibit are incorporated herein and made a part hereof by reference. The aforesaid Building was constructed substantially in accordance with the Plans and Specifications and any modifications thereof on file with the Building and Zoning Department of Palm Beach County, Florida.

3.2 Unit Boundaries. Each Unit shall include that portion of the Building containing the Unit that lies within the boundaries of the Unit, which boundaries are as follows:

- (a) The Owners of the respective Condominium Units shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors and ceilings surrounding their respective Condominium Units, nor shall the Unit Owner be deemed to own pipes, wires, conduits or other public utility lines running through said respective Condominium Units which are utilized for or serve more than one Condominium Unit, which, by these presents, hereby made a part of the Common Elements. Said Unit Owners, however, shall be deemed to own the walls and partitions which are contained in said Unit Owner's Condominium Unit and shall also be deemed to own the inner decorated and/or finished surfaces of the perimeter walls, floors and ceilings, including plaster, paint, wallpaper, etc.; however, all load bearing walls located within a Condominium Unit are a part of the Common Elements to the unfinished surface of said walls.

3.3 Limited Common Elements.

- (a) Those areas reserved for the use of certain unit owners or a certain Unit owner to the exclusion of other unit owners are designated as "limited common elements" and are shown and located on the Surveys annexed to Exhibit No. 1 of the Original Declaration of Condominium.
- (b) Each Unit shall be entitled to be assigned one (1) parking space and the Unit Owner shall be entitled to the exclusive occupancy of said parking space, as assigned by the Developer. All unassigned parking spaces remain part of the Common Elements.
- (c) All portions of the Condominium Property for which the Unit Owners are responsible for maintenance, repair and replacement under Section 7 of this Declaration which are not located within the Unit boundaries set forth in Section 3.2 above shall be considered Limited Common Elements.

- (d) Where the Limited Common Elements consists of a screened porch, the Unit Owner who has the right to the exclusive use of said screened porch shall be responsible for the maintenance, care and preservation of the paint and surface of the exterior walls, including floor and ceiling within said exterior screened porch, and the maintenance, care, preservation and replacement of the screening on the said screened porch, and fixed and/or sliding glass doors in the entrance way to said screened porch, and the replacement of light bulbs on said screened porch, and wiring, electrical outlets and fixtures thereon.
- (e) The Electrical Room breaker serving only one unit shall be a Limited Common Element of the Unit which it serves. The Unit Owners are be responsible for maintaining, repairing and replacing the electrical breaker serving only their Unit.

3.4 Easements. The following easements are hereby created (in addition to any easements created under the Act):

- (a) Perpetual Nonexclusive Easement. The Common Elements shall be, and the same are hereby declared to be subject to a perpetual non-exclusive easement in favor of all of 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 Unit Owners.
- (b) Settlement or Movement of Improvements. In the event that any Unit shall encroach upon any Common Elements for any reason not caused by the purposeful or negligent act of the Unit Owner or Owners or agents of such Owner or Owners, then an easement appurtenant to such Unit shall exist for the continuance of such encroachment upon the Common Elements for so long as such encroachment shall naturally exist; and, in the event that any portions of the Common Elements shall encroach upon any Unit, then an easement shall exist for the continuance of such encroachment of the Common Elements into any Unit for so long as such encroachment shall naturally exist.

- (c) Air Space. The Owner of each Unit shall have an exclusive easement for the use of the air space occupied by said Unit as it exists at any particular time and said Unit may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is vacated from time to time.
 - (d) Condominium Act. Notwithstanding the fact that the present provisions of the Condominium Act of the State of Florida are incorporated by reference and included herein thereby, the provisions of this Declaration and Exhibits thereto shall be paramount to the Condominium Act as to those provisions where permissive variances are permitted; otherwise, the provisions of said Condominium Act shall prevail and shall be deemed incorporated herein.
 - (e) Access Easement. The Condominium property may not be abutting, contiguous or adjacent to any public street, road or right-of-way. UCO covenants to provide access from North Haverhill Road and Okeechobee Boulevard (a public dedicated road) to the Condominium property for road purposes for ingress and egress and for such easements as may be required for drainage and utility service easements. The aforesaid easement shall not create a burden upon the access easement land, nor shall it run with this Condominium, and UCO shall have the continuous right to change and relocate such access easement as often as it desires, without the requirement of the Condominium association, the Unit Owners in this Condominium, and all other persons entitled to the use of said access easement consenting to or joining in an instrument to accomplish the foregoing. UCO shall have the right to dedicate such access easement as it desires to the public and the appropriate Governmental authority without the consent or execution of an instrument to this effect by person entitled to the use of said access easement. The foregoing right of UCO is limited only to the extent that such changing and relocation or dedication of the access easement shall be reasonable. The access easement referred to herein is as designated in Exhibit No. 1 to the original Declaration.
- 3.5 Long-Term Lease. The Association, as Lessee, has entered into a Long-Term Lease Agreement with Century Village, Inc., a Florida Corporation, as to a non-exclusive undivided interest in and to the demised premises described therein, a copy of said Lease being attached as Exhibit No. 3 to

the Original Declaration. The Association has acquired the foregoing Leasehold interest pursuant to Florida Statute 711.121, and pursuant to said Statute and the Long-Term Lease, all monies due and to become due under the provisions of said Lease, including, without limitation, expenses of rent and such other items as are specified in said Lease, are and shall continue to be for the full term of said Lease, declared to be Common Expenses of the Condominium.

- (a) In order to secure the faithful performance of the Association's obligations to the Lessor under the Long-Term Lease, and to secure the Unit Owner's obligation to pay his share of the Common Expenses as to the Long-Term Lease, each Unit Owner, i.e., the original purchaser from the Developer, shall execute a copy of the Long-Term Lease attached as Exhibit No. 3 to the Original Declaration, together with the Lessor and Lessee Association, which Lease shall be recorded in the Public Records of Palm Beach County, Florida, together with the Deed of conveyance from the Developer Lessor to the Unit Owner and under the terms of said Lease, as set forth therein, each Unit Owner shall impress a lien and pledge his full interest in his Condominium Parcel in the subject Condominium in favor of the Lessor.
- (b) The Unit Owner shall be entitled to the use and enjoyment of the Recreational Facilities under the Long-Term Lease, subject to the Rules and Regulations promulgated by the Lessor.
- (c) Whenever any of the provisions of the Long-Term Lease and/or this Declaration shall be in conflict, the provisions of the Long-Term Lease shall be controlling.
- (d) Neither the demised premises under the Long-Term Lease nor the Condominium Association and its members' rights' thereto shall be deemed a part of the Condominium Property of the Condominium created by this Declaration of Condominium.

4. RESTRAINT UPON SEPARATION AND PARTITION OF COMMON ELEMENTS.

The undivided share in the Common Elements and Common Surplus which is appurtenant to a Unit, and the exclusive right to use all appropriate appurtenant Limited Common Elements shall not be separated from the Unit and shall pass with

the title to the Unit, whether or not separately described. The appurtenant share in the Common Elements and Common Surplus, and the exclusive right to use all Limited Common Elements appurtenant to a Unit, except as elsewhere herein provided to the contrary, cannot be conveyed or encumbered except together with the Unit. The respective shares in the Common Elements appurtenant to Units shall remain undivided, and no action for partition of the Common Elements, the Condominium Property, or any part thereof, shall lie, except as provided herein with respect to termination of the Condominium.

5. OWNERSHIP OF COMMON ELEMENTS AND COMMON SURPLUS AND SHARE OF COMMON EXPENSES; VOTING RIGHTS.

5.1 Percentage Ownership and Shares. Each Unit shall have, as an appurtenance thereto, an undivided percentage interest in the Common Elements and a percentage share of the Common Expenses and Common Surplus, as outlined in the Survey attached to the Original Declaration.

Type "A" Units (1 Bedroom, 1 bath..... 3.60%
Type "B" Units (1 Bedroom, 1 ½ bath or 2 bath).. 3.79%
Type "D" Units (2 Bedroom, 1 ½ bath or 2 bath)... 4.35%

5.2 Voting. An Owner or Owners of a Unit shall collectively be entitled to one (1) vote (hereinafter referred to as "Voting Interests").

5.3 Membership in Association. Each Unit shall have, as an appurtenance thereto, a membership in the Association and in the funds and assets of the Association. Membership is limited to natural persons. Entities, including, but not limited to, corporations, limited liability companies and partnerships, may not own Units at the Condominium. The foregoing limitation on corporate ownership shall not apply to the Association or the Long-Term Lessor acquiring Units or mortgagees acquiring title to Units through foreclosure or deed in lieu of foreclosure.

6. AMENDMENTS. Except as elsewhere provided herein, amendments to this Declaration may be effected as follows:

6.1 By the Association. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered or the written agreement through which a proposed amendment is to be considered. A resolution for the adoption of a

proposed amendment may be proposed either by a majority of the Board of Directors of the Association or by not less than one-half (1/2) of the total voting interests of Units of the Association. Except as elsewhere provided, approvals must be by not less than seventy-five percent (75%) of the total Voting Interests in the Association voting in person, by proxy, or by any other lawful means, at a members meeting at which a quorum is present or by written agreement, provided a quorum participates in the vote by written agreement. Voting may also be conducted, if approved in the manner required by the Act, by internet based online voting. Any amendment which impacts the rights of the Long Term Lessor under the Long Term Lease must be approved by the Lessor.

- 6.2 Execution and Recording. An amendment shall be evidenced by a certificate of the Association which shall include recording data identifying the Declaration and shall be executed with the same formalities required for the execution of a deed. An amendment of the Declaration is effective when the applicable certificate is properly recorded in the Public Records of Palm Beach County. No provision of this Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of this Declaration shall contain the full text of the provision to be amended; new words shall be inserted and the text underlined; and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Declaration. See provision ... for present text." Non-material errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment. Scrivener's errors may be corrected by a vote of the Board without the necessity of membership approval.
- 6.3 Proviso. Provided, however, that no amendment shall change any Unit nor the share in the Common Elements appurtenant to it, nor increase the Owner's share of the Common Expenses, unless the record Owner of the Unit concerned and all record owners of mortgages on such Unit shall join in the execution of the amendment. Neither shall an amendment make any change in the section entitled "Insurance" nor in the section entitled "Reconstruction or repair after casualty" unless the record owners of all mortgages upon the Condominium shall join in the execution of the

amendment. Notwithstanding the foregoing, no amendment to this Declaration may be adopted which, in any manner, impairs, interferes or conflicts with, or is in any way inconsistent with any of terms and provisions of the Long Term Lease, without the written approval of the Long-Term Lessor, its successors or assigns during the term of the Long Term Lease.

- 6.4 If subsequent to the recording of these amendments the Long Term Lessor requires specific revisions to the text of this Declaration in order to receive its approval, the text of this Declaration may be revised and such amendments recorded to the extent necessary to receive such approval without the necessity of a further membership vote.

7. MAINTENANCE, REPAIR AND REPLACEMENT OF UNITS, LIMITED COMMON ELEMENTS, COMMON ELEMENTS AND ASSOCIATION PROPERTY.

- 7.1 Common Elements and Association Property. Except to the extent (i) expressly provided to the contrary herein, or (ii) proceeds of insurance are made available therefor, the Association shall be responsible, at Common Expense, for:
- (a) All maintenance, repairs and replacements in or to the Common Elements, Limited Common Elements and Association Property;
 - (b) All portions of the Condominium (except interior wall surfaces of Units) contributing to the support of the building, which portions shall include, but not be limited to, the outside walls of the building, chasing and load bearing railings, walls or columns, or boundary walls of Units;
 - (c) All fixtures on the exterior of the Buildings;
 - (d) All floor and ceiling slabs, including, but not limited to, the slabs of all terraces and balconies;
 - (e) All conduits, chases, chase areas, ducts, plumbing and air-conditioning;
 - (f) All wiring and other facilities for the furnishing of Utility Services which are contained in the aforementioned portions of the Condominium;

- (g) All electrical lines, conduits or fixtures from the shared or common distribution facility or conduit up to, but not including, the circuit breaker box within or serving the Unit,
- (h) All plumbing lines, conduits or fixtures from the shared or common distribution facility or conduit up to, but not including, the point that such lines or conduits enter the Unit boundaries, including drain lines from the point that the drain line exits the Unit boundaries;
- (i) All other utilities contained within a Unit which service part or parts of the Condominium other than the Unit within which contained;
- (j) All property owned by the Association and other property contemplated by and to the extent the same is consistent with the terms hereof;
- (k) All incidental damage caused to a Unit by the Association's discharge of its responsibilities under this Section 7.1 up to a maximum of \$1,000.00 per Unit (unless caused by negligent or intentional misconduct for which the Association is responsible, in which case no limitation shall apply).

The Association's aforementioned responsibilities shall not apply to the extent such maintenance, repair or replacement arises from or is necessitated by the negligence, misuse or neglect of one or more Unit Owners, their families, guests or invitees, in which case such cost and expense shall be paid solely by such Unit Owners, and shall be enforceable in the same manner as any Assessment under Section 12 hereof, including, but not limited to, by recordation and foreclosure of a claim of lien against the Unit.

- 7.2 Units. All maintenance, repairs and replacements of, in or to any Unit, as defined in Section 3.2 hereof, shall be performed by the Owner of such Unit at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein. The Unit Owner shall also maintain, repair and replace, at his, her or its sole cost and expense, all portions of any hurricane shutter(s) that the Unit Owner may install, upon prior written approval of the Association, including such portion of the Common Elements, if any, to which the hurricane shutter(s) is/are attached, which cost and expense shall also include the cost and expense of removal and/or

reinstallation by the Association of the hurricane shutter(s) if necessary or required in order for the Association to discharge its obligations hereunder.

7.3 Specific Unit Owner Responsibilities.

- (a) The Unit Owner shall be responsible for the maintenance, repair and replacement of any portions of the air-conditioning and heating systems serving only a particular Unit, including, but not limited to, filters, the compressor, condenser, motor, fan, air handler, condensate line at its terminus or the location at which it joins another unit's condensate line and all related parts, without regard to whether such items are located within the boundaries of the Units, except as provided in Section 7.1 hereinabove. Notwithstanding the foregoing, the Association may, but is not obligated to, enter a service contract for all air conditioning and heating systems serving any portion of the Condominium Property, with the cost of the service contract being paid for at Common Expense, but each individual Owner being responsible for any maintenance and repair not covered by the service contract and with Unit Owners being wholly responsible for any costs associated with the replacement of any portion of the air conditioning or heating system. Unit Owners must take steps to ensure that the interior of their units are kept at a temperature and humidity level so as to prevent the proliferation of mold or mildew. The foregoing requirement remains in effect even during periods when the Unit is left vacant.
- (b) The Unit Owner shall be responsible for all maintenance, repairs and replacements in or to exterior screens, doors and windows serving a Unit, including, without limitation, all frames, locks and operating mechanisms appurtenant thereto. Without limiting the generality of the foregoing, no Unit Owner may decorate, alter or modify exterior screens, doors or windows or the framework, locks or operating mechanisms thereof in any manner whatsoever, except with the prior written approval of the Board of Directors, as provided in Section 9 hereof.
- (c) The Unit Owner shall maintain, repair, and replace at his or her expense all fans, stoves, hot water heaters, refrigerators, or other appliances or equipment, including any fixtures and/or their connections required to provide Utility Service to his or her Unit. The

Association may, but is not obligated to, enter a contract for maintenance and/or inspection of hot water heaters. The expense of such maintenance and/or inspection covered by any such contract shall be a Common Expense. All maintenance, repairs and replacements not covered by the contracts shall be the responsibility of the Unit Owner. The hot water heater in each Unit must be replaced at the earlier of the twelfth (12th) anniversary of installation of the hot water heater or the receipt by the Unit Owner of an inspection report from the Association which states that the hot water heater requires replacement, in which case the hot water heater shall be replaced within thirty (30) days. Should a Unit Owner fail to replace a hot water heater as required in this paragraph, the Association may seek injunctive relief through arbitration or litigation requiring the Unit Owner to replace the hot water heater. The Association also reserves the right, but not the obligation, to enter the Unit during reasonable hours, to replace the hot water heater for the protection of the Unit, neighboring Units and the Common Elements, with the cost of the new equipment and installation to be borne by the owner of the Unit receiving the new hot water heater. Such costs and charges shall be enforceable as a Lien for Charges assessed pursuant to Article 12 of this Declaration and Section, 718.116, Florida Statutes, both as may amended from time to time. The term "reasonable hours" as used in this paragraph shall not be construed as precluding the Association or its agents from entering a Unit at any time in the event of an emergency.

- (d) The Unit Owner shall be responsible for the maintenance, repair and replacement, as necessary, of the circuit breaker box within or serving the Unit and all electrical lines, conduits or fixtures running from the circuit breaker box into the Unit up to and including the fixtures or outlets within the Unit.
- (e) The Unit Owner shall be responsible for the maintenance, repair and replacement, as necessary, of all plumbing lines, conduits or fixtures from the point at which they enter the Unit boundaries as such boundaries are described elsewhere in this Declaration up to and including the fixtures or outlets within the Unit, and all drain lines within or serving the Unit up to the point the drain line crosses the threshold of the Unit boundaries.

- (f) Notwithstanding any other provision of this Declaration, a Unit Owner shall be responsible for the maintenance, repair and replacement of all upgrades to the Unit and Limited Common Elements which were not originally installed by the Developer and are not replacements of like kind and quality.
- (g) Unit Owners shall be responsible for the maintenance and upkeep of the surfaces of their patios and balconies, including the maintenance, repair, and replacement of all screens and screen frames, as well as all floor coverings which may be permitted from time to time by the rules and regulations of the Board of Directors. The screens and screen frames are a Limited Common Element as are the floor coverings.
- (g) Unit Owners shall promptly report to the Association any defects or need for repairs, the responsibility for the remedy of which is that of the Association.
- (h) All maintenance, repair or replacement for which the Units Owners are responsible shall be performed by contractors with appropriate licensure and insurance. The Board of Directors may set standards for appropriate levels of insurance and may require proof of licensure, insurance and the procurement of any required permits before permitting a contractor on the Condominium Property. The Board may deny access to the property to any contractor performing work that requires approval from the Board of Directors hereunder until such approval has been granted in the manner required herein.
- (i) Unit owners shall be responsible for the cost of repairs to the Common Elements when such damage results from the Unit Owner's negligent or intentional acts or the negligent or intentional acts of the Unit Owner's family members, guests, invitees, or licensees. The cost of repairs may become a Lien for Charges against the Unit and collected in the same manner as all other Assessments.
- (j) The Unit Owners are be responsible for maintaining, repairing and replacing the electrical breaker serving only their Unit.

- (k) Pest control services within the Unit boundaries is the Unit owner's responsibility. If a Unit is found to have pests or any type of infestation the Unit owner will contact a pest control service and pay for such service to remedy the problem. If the Unit Owner fails to remedy the problem, the Association may do so and charge the Unit Owner the cost of same, the cost becoming a Lien for Charges, collectible as an Assessment against the Unit in the same manner as all other Assessments may be collected pursuant to Article 12 of this Declaration and Section 718.116, Florida Statutes, as amended or renumbered from time to time.

7.4 Miscellaneous Provisions. Where portions of the Condominium Property are a lake or drainage lagoon, or are subject to the easement of being a drainage lagoon, it being understood that lakes are a portion of a drainage lagoon, the cost of maintaining same shall be a common expense of the Condominium. Where a Condominium abuts a roadway designated as a "collector road" within Century Village, by the Lessor under the Long-Term Lease, the cost of maintaining the landscaping within the said roadway which abuts the Condominium Property shall be the obligation of the Condominium. Collector roads within Century Village shall include, but are not limited to, Century Boulevard, North Drive, South Drive, East Drive and West Drive.

8. **ADDITIONS, ALTERATIONS OR IMPROVEMENTS TO COMMON ELEMENTS OR ASSOCIATION PROPERTY BY THE ASSOCIATION.** No portion of the Common Elements and Association Property may be subject to any additions, alterations or improvements (as distinguished from maintenance, repairs and replacements) which involve a Common Expense in excess of one (1%) percent of the annual budget then in effect for Common Expenses, including operating expenses and reserves, for any individual addition, alteration or improvement, or in excess of five (5%) percent of the annual budget then in effect, including operating expenses and reserves, for all additions, alterations or improvements undertaken within a fiscal year, unless such additions, alteration or improvements have been approved by not less than a majority of the Voting Interests of the participating membership of the Association present, in person or by proxy, at a meeting called for that purpose at which a quorum is established or voting by written agreement where at least a quorum of the membership participates. Any additions, alterations or improvements to the Common Elements or Association Property, or any part thereof, costing less than the one (1%) percent or five (5%) percent thresholds described above, may be approved by the Board of Directors without approval of

the Unit Owners. The cost and expense of any such additions, alterations or improvements to such Common Elements or Association Property undertaken by the Association shall constitute a part of the Common Expenses and shall be assessed to the Unit Owners accordingly.

The residents of the Condominium are aging which may, over time, result in physical difficulties for some second floor Unit Owners to access their Units. In addition, over time, the lack of an elevator or lift serving the second floor Units may have a negative impact on the marketability of all the Units in the Condominium. Therefore, notwithstanding anything in this Declaration to the contrary, the Board of Directors may determine to add or cause to be installed an elevator or lift to this Condominium, and the elevator or lift shall be deemed to be for the benefit of all the Unit Owners of this Condominium. The elevator or lift shall be part of the common elements of this Condominium. The Board of Directors, in its sole discretion, may determine the type, make, style, model, specifications and location of the elevator or lift, which determination shall be deemed not to prejudice the right(s) of any Unit Owner. The cost of the installation, maintenance, operation, repair and replacement of the elevator or lift, and any other expenses associated with such elevator or lift, shall be part of the Common Expenses. Notwithstanding anything in this Declaration, the Articles of Incorporation or Bylaws to the contrary, the Board of Directors may borrow funds from any lending institution to finance the addition or installation of the elevator or lift, and the Board is authorized to pledge or assign Association income and assessments as security for the loan. The foregoing shall not be construed as a requirement for the Board to take such action in lieu of an individual Unit Owner installing a lift or elevator at his or her own expense upon approval of a reasonable modification.

9. ADDITIONS, ALTERATIONS OR IMPROVEMENTS TO UNITS, LIMITED COMMON ELEMENTS, COMMON ELEMENTS AND ASSOCIATION PROPERTY BY UNIT OWNER.

- 9.1 Prohibited Alterations. No Unit Owner shall make any addition, alteration or improvement in or to the Common Elements or Association Property.
- 9.2 Consent of the Board of Directors. No Unit Owner shall make any addition, alteration or improvement in or to (i) the interior of the Unit which is structural in nature, or which impacts the Common Elements in any way, including, but not limited to, any work which involves piercing the Unit boundary or which requires the issuance of a permit from a governmental or regulatory authority

or agency or to (ii) the Limited Common Elements, without the prior written consent of the Board of Directors.

Any and all requests for electrical, mechanical or structural additions, alterations or improvements must be in writing and must be submitted to the Association with plans prepared and sealed by the appropriate professional (i.e., architect, engineer, etc.).

The Board shall have the obligation to answer any written request by a Unit Owner for approval of such an addition, alteration or improvement within thirty (30) days after receipt of such request and all sealed plans or thirty (30) days after receipt of any additional information requested by the Board within thirty (30) days of receipt of the initial request. Failure to respond within the stipulated time shall constitute the Board's consent.

The proposed additions, alterations and improvements by the Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, which may not be waived by the Association under any circumstances, and with any conditions imposed by the Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise.

Once approved by the Board of Directors, such approval may not be revoked unless the Board finds misrepresentations in the application submitted by the Unit owner. A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and all future owners of the Unit, and their heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, its Board members, officers and employees, and all other Unit Owners harmless from and to indemnify them for any liability or damage to the Condominium Property and expenses arising therefrom, and shall be solely responsible for the maintenance, repair, replacement and insurance for such additions, alterations or improvements from and after the date of installation or construction thereof as may be required by the Association, and shall also be responsible for all costs associated with removal and reinstallation of same when necessary, in the discretion of the Board of Directors, in connection with the Association's performance of its maintenance obligations under this Declaration.

The Board may impose the requirements set forth in Paragraph 7.3(g) above and may require the execution of a covenant to run with the Unit to memorialize the application, approval, conditions of approval and future obligations of the Unit Owner and may condition its approval of any addition, alteration or improvement hereunder upon the preparation, execution and recording of such a covenant at the Unit Owner's expense.

10. OPERATION OF THE CONDOMINIUM BY THE ASSOCIATION; POWERS AND DUTIES.

10.1 Powers and Duties. The Association shall be the entity responsible for the operation of the Condominium. The powers and duties of the Association shall include those set forth in the Amended and Restated By-Laws and Amended and Restated Articles of Incorporation of the Association, as amended from time to time. In addition, the Association shall have (i) all the common law and statutory powers of a corporation not for profit under the laws of Florida that are not in conflict with the provisions of the Articles, the Declaration, the By-Laws or the Act; (ii) the powers and duties set forth in the Act; as well as (iii) all powers and duties granted to or imposed upon it by this Declaration, including without limitation:

- (a) The irrevocable right to have access to each Unit from time to time during reasonable hours when necessary for the inspection, maintenance, repair or replacement of any Common Elements, Association Property, or of any portion of a Unit to be maintained by the Association pursuant to this Declaration or at any time as necessary to prevent damage to the Common Elements, Association Property, or to a Unit or Units. Unit Owners shall be required to provide the Association with a key for access to the Unit for the foregoing purposes. If the Owner fails to provide a key that provides access to the Unit, the Association shall not be liable for any damage caused to the Unit or to the Unit Owner's property as a result of the Association gaining access to the Unit or any delay in gaining such access. The Owner shall be responsible for reimbursing the Association the cost of such access including but not limited to the cost of a locksmith as a Lien for Charges. The Board and/or the manager may, but is not obligated to, from time to time, inspect the interior of the Unit during periods when the Unit is left vacant for more than one month to ensure that there is no mold, mildew, or other damage occurring during the Unit Owner's absence. It remains the

Unit Owner's responsibility to ensure that his or her Unit remains in habitable condition during his or her absence.

- (b) The power to make and collect regular and special Assessments, subject to the provisions of the By-Laws, and other charges against Unit Owners and to regulate, administer, convey, lease, maintain, repair and replace the Common Elements and Association Property.
- (c) The power to acquire or convey title to real property (excluding Units in the Condominium) and to mortgage real property upon the approval of a majority of all the voting interests of the Association either at a meeting or by written agreement.
- (d) The power to purchase Units in the Condominium and to hold, lease, mortgage or sell a Unit so acquired, subject to the limitations thereon in the Articles of Incorporation on the manner in which Units may be acquired.
- (e) The power to acquire, sell or mortgage personal property and to hold, regulate, administer, lease, maintain, repair, and replace same.
- (f) The right to grant, modify or move easements which are part of or cross the Common Elements or Association Property.
- (g) The duty to maintain official records according to good accounting practices, and the requirements of the Condominium Act, as same may be amended from time to time.
- (h) The power to contract for the management and maintenance of the Condominium Property and to authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules, maintenance, repair and replacement of those portions of the Condominium Property for which the Association is obligated or authorized to provide same and such other management functions as the Board of Directors may delegate with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted in the Condominium documents and the

Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.

- (i) The power to adopt and amend rules and regulations concerning the details of the operation and use of the Units, the Common Elements, Association Property and the Condominium Property, in the manner provided in the By-Laws.
- (j) The power to lease and/or charge a fee for the exclusive use of Common Elements (other than Limited Common Elements) or Association Property to any Unit Owner or other third party being granted a right to such exclusive use.
- (k) All of the powers which a corporation not for profit in the State of Florida may exercise.

In the event of conflict among the powers and duties of the Association and the terms and provisions of this Declaration, or the exhibits attached hereto, this Declaration shall take precedence over the Articles of Incorporation, By-Laws and applicable rules and regulations; the Articles of Incorporation shall take precedence over the By-Laws and applicable rules and regulations; and the By-Laws shall take precedence over applicable rules and regulations, all as amended from time to time. Notwithstanding anything in this Declaration or its exhibits to the contrary, the Association shall at all times be the entity having ultimate control over the Condominium, consistent with the Act.

- 10.2 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 for the cost of maintenance and repair of those portions of the Condominium Property for which the Association is responsible under Section 7 hereof, caused by any latent condition of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements done by or on behalf of any Unit Owners regardless of whether or not same shall have been approved by the Association pursuant hereto. Further, the Association shall not be liable to any Unit Owner or lessee or to any other person or entity for any property damage, personal injury, death or other liability on the

grounds that the Association did not obtain or maintain insurance (or carried insurance with any particular deductible amount) for any particular matter where (i) such insurance is not required hereby or (ii) the Association could not obtain such insurance at reasonable costs or upon reasonable terms.

- 10.3 Restraint Upon Assignment of Shares in Assets. The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit.
- 10.4 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 or vote by written agreement, that decision shall be expressed by the same person who would cast the vote for that Unit if at an Association meeting, unless the joinder of all record Owners of the Unit is specifically required by this Declaration or by law.
- 10.5 Acts of the Association. Unless the approval or action of Unit Owners and/or a certain specific percentage of the Board of Directors of the Association is specifically required in this Declaration, the Articles of Incorporation or By-Laws of the Association, applicable rules and regulations or applicable law, all approvals or actions required or permitted to be given or taken by the Association under the Declaration, Articles of Incorporation or By-Laws shall be given or taken by the Board of Directors, without the consent of Unit Owners, and the Board may so approve and act through the proper officers of the Association without a specific resolution.

11. **DETERMINATION OF COMMON EXPENSES AND FIXING OF ASSESSMENTS THEREFOR.** The Board of Directors shall from time to time, and at least annually, prepare a budget for the Association, determine the amount of Assessments payable by the Unit Owners to meet the Common Expenses and allocate and assess such Assessments among the Unit Owners in accordance with the provisions of this Declaration and the By-Laws. Additionally, the Board of Directors may levy special assessments when determined by the Board of Directors to be necessary. The Board of Directors shall advise all Unit Owners promptly in writing of the amount of the Assessments payable by each of them as determined by the Board of Directors as aforesaid and shall furnish copies of each budget, on which such Assessments are based, to all Unit Owners. Incidental income to the Association, if any, may be used to pay regular or extraordinary Association expenses and liabilities, to fund reserve accounts, or otherwise as the Board shall

determine from time to time, and need not be restricted or accumulated. Any Budget adopted shall be subject to change to cover actual expenses at any time. Any such change shall be adopted consistent with the provisions of the By-Laws. The portion of the Common Expenses under the Long-Term Lease shall be fixed and determined by the Lessor, as provided under said Long-Term Lease or subsequent agreements to same.

12. COLLECTION OF ASSESSMENTS.

- 12.1 Liability for Assessments. A Unit Owner, regardless of how title is acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, shall be liable for all Assessments and other charges coming due while that person is the Unit Owner. Except as provided in Section 12.4 below, the Unit Owner shall also be jointly and severally liable with the previous Owner for all unpaid Assessments and other charges that came due up to the time of the transfer of title. This liability is without prejudice to any right the Owner may have to recover from the previous Owner the amounts paid by the Owner. The person acquiring title shall pay the amount owed to the Association within thirty (30) days after transfer of title. Failure to pay the full amount when due shall entitle the Association to record a claim of lien against the Condominium Parcel and proceed in the same manner as provided herein and in the Act, as amended from time to time, for the collection of unpaid Assessments. The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or Association Property or by the abandonment of the Unit for which the Assessments are made or otherwise.
- 12.2 Default in Payment of Assessments for Common Expenses. Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at the highest lawful rate from the date due until paid. In addition to the above stated interest, the Association shall charge an administrative late fee in an amount not to exceed the highest amount provided for in the Act on all Assessments and installments thereof not paid when due. All partial payments upon account shall be applied in the manner prescribed in the Act. The Association has a lien on each Condominium Parcel to secure the payment of Assessments. The lien is effective from and shall have such priority as provided for in the Act. All claims of lien must state the description of the Condominium Parcel, the name of the record Owner, the name and address of the Association, the amount due and the due dates and must be executed and acknowledged by

an officer or authorized agent of the Association. The claim of lien shall secure (whether or not stated therein) all unpaid Assessments, which are due at the time a claim of lien is recorded, as well as all regular and special Assessments which may be levied or which may accrue subsequent to the recording of the claim of lien and prior to satisfaction of the lien or the issuance of a certificate of title, together with interest, late charges and all reasonable costs and attorneys' fees incurred by the Association incident to the collection and foreclosure process. Upon payment in full, the person making the payment is entitled to a satisfaction of the lien. The Association may bring an action in its name to foreclose its lien in the same manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid Assessments without waiving any claim of lien. The Association is entitled to recover its reasonable attorneys' fees incurred in either a lien foreclosure action or an action to recover a money judgment for unpaid assessments. As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid, the Association may declare the Assessment installments for the remainder of the fiscal year in which a claim of lien has been filed to be accelerated, as provided in Section 12.7 below.

- 12.3 Assignment of Rents. The Association is hereby granted a lien against any rents derived from the Unit which shall have the same priority as the Association's lien for unpaid assessments against the Unit. Except to the extent limited by the Condominium Act, as the same may be amended from time to time, the lien on any rentals derived from the Unit shall be enforceable by the delivery of written notice to the owner and the tenant demanding the payment of the rents, provided, however, that no such demand may be made unless and until the owner is delinquent in the payment of any Assessment or other charge due and payable to the Association by the Unit Owner under this Declaration.
- 12.4 First Mortgagee. A First Mortgagee acquiring title to a Condominium Parcel as a result of foreclosure of its first mortgage, or by 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 the payment of some or all of the Common Expenses coming due during the period of such ownership. In addition, the First Mortgagee is liable for the share of Common Expenses or Assessments or other charges imposed by the Association pertaining to such Condominium Parcel which became due prior to acquisition of title as a result of the foreclosure or the acceptance of such

deed; provided, however, the First Mortgagee's liability is limited to the maximum amount set forth in the Act. If any unpaid share of Common Expenses or Assessments or other charges is extinguished by foreclosure of a superior lien or by a deed in lieu of foreclosure thereof, the unpaid share of Common Expenses or Assessments are Common Expenses collectible from all of the Unit Owners, including such acquirer, and such acquirer's successors and assigns.

- 12.5 Certificate of Unpaid Assessments. Within fifteen (15) days after request by a Unit Owner or mortgagee of a Unit, the Association shall provide a certificate stating whether all Assessments and other moneys owed to the Association by the Unit Owner with respect to his Unit have been paid. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby. The Association or its authorized agent may charge a reasonable fee for the preparation of the Certificate.
- 12.6 Installments. Regular Assessments may be collected monthly or quarterly, in advance, at the option of the Board of Directors, with any change in the schedule for payment of the assessments from quarterly to monthly or monthly to quarterly to require the approval of a majority of the members of the entire Board. Special assessments shall be payable on such terms as may be established by the Board.
- 12.7 Acceleration of Assessment Installments Upon Default. If a Unit Owner shall be in default in the payment of an installment upon an Assessment, the Board may accelerate the remaining installments of the Assessment upon notice to the Unit Owner, and the then unpaid balance of the Assessment shall be due upon the date stated in the notice.
13. INSURANCE. The insurance other than title insurance that shall be carried upon the Condominium Property and the property of the Unit Owners shall be governed by the following provisions:
- 13.1 Authority to purchase; named insured. All insurance policies upon the Condominium Property shall be purchased by the Association. The named insured shall be the Association individually and as agent for the Unit Owners, without naming them, and as agent for their mortgagees. Provision shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of Unit Owners. Such policies shall provide that payments by the insurer for losses shall be made to the

Insurance Trustee designated below, and all policies and their endorsements shall be deposited with the Insurance Trustee. Unit Owners may obtain coverage at their own expense for their personal liability and living expense. Unit Owners shall obtain coverage upon all real and personal property located within the boundaries of the Unit which is excluded from the coverage to be provided by the Association as set forth in Paragraph 13.2(a) below, which policies shall provide that the coverage afforded thereunder is excess over the amount recoverable under any other policy covering the same property and which shall be without rights of subrogation against the Association. The Association may, through rules adopted by the Board of Directors, require Unit Owners to provide proof of insurance consistent with the requirements of this Declaration.

13.2 Coverage.

- (a) Casualty. All buildings and improvements upon the land shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, and all personal property included in the Common Elements shall be insured for its value, all as determined annually by the Board of Directors of the Association. The Association shall use its best efforts to obtain coverage for those portions of the Condominium Property and Association Property for which coverage is required by the Act. Such coverage shall afford protection against:
- (i) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and
 - (ii) Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land, including but not limited to vandalism and malicious mischief.

The Association shall be deemed to have complied with the requirements of this paragraph provided the Association obtains such coverage as may be required by the Act.

- (b) Public Liability in such amounts and with such coverage as shall be required by the Board of Directors of the Association, including but not limited to hired automobile and nonowned automobile coverages,

and with cross liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner.

- (c) Workmen's Compensation policy to meet the requirements of law.
- (d) Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

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

13.4 Insurance trustee; shares of proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to such bank in Florida with trust powers as may be designated as insurance trustee by the Board of Directors of the Association, which trustee is referred to in this instrument as the Insurance Trustee. The Association may also act as its own Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the proceeds in trust for the purposes elsewhere stated in this instrument and for the benefit of the Unit Owners and their mortgagees in the following shares, but 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 his Unit.
- (b) Units. Proceeds on account of damage to Units shall be held in the following undivided shares:
 - (i) When the Building is to be Restored. For the Owners of damaged Units in proportion to the cost of repairing the damage suffered by each Unit Owner, which cost shall be determined by the Association.

(ii) When the 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 Elements appurtenant to his Unit.

(c) Mortgages. In the event a mortgagee endorsement has been issued as to a Unit, the share of the 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 distributions of such proceeds made to the Unit Owner and mortgagee pursuant to the provisions of this Declaration.

13.5 Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

(a) Expense of the Trust. All expenses of the Insurance Trustee shall be paid first or provision made for such payment.

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

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

- (d) Certificate. In making distribution to Unit Owners and their mortgagees, the Insurance Trustee may rely upon a Certificate of the Association made by its President and Secretary as to the names of the Unit Owners and their respective shares of the distribution.
- 13.6 Association as Agent. The Association is irrevocably appointed agent for each Unit Owner and for each owner of a mortgagee or other lien upon a Unit and for each owner of any other interest in the Condominium Property to adjust all claims arising out of insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.
- 13.7 Unit Owner Insurance. Unit Owners are required to purchase a policy of insurance on all portions of the Unit for which the Association is not responsible under this Declaration or under the Act. The Association may require that proof of insurance be provided to the Board on an annual basis. If a Unit Owner does not have insurance the Association may file a petition for arbitration and/or file suit in the Circuit Court to seek injunctive relief to require compliance. In addition to the foregoing remedies and not in lieu thereof, the Association may, if an insurance policy is available for the Association to obtain on behalf of the Unit Owner, purchase a policy of insurance and the cost of same shall become a Lien for Charges against the Unit collectible in the same manner as all other Assessments against the Unit.
14. **RECONSTRUCTION OR REPAIR AFTER CASUALTY**. This provision shall apply to the reconstruction and repair of any portion of the Condominium Property damaged by casualty.
- 14.1 Determination to Reconstruct or Repair. If any part of the Condominium Property shall be damaged by casualty, whether or not and the manner in which it shall be reconstructed or repaired shall be determined in the following manner:
- (a) Common Elements. If the damaged improvement is a Common Element, the damaged property shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the condominium shall be terminated.

- (b) Building. The Unit Owners may vote not to reconstruct or repair the Condominium Property after casualty and terminate the Condominium as provided in the Act.
- (c) Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original Buildings, portions of which are attached hereto as exhibits; or if not, then according to plans and specifications approved in the manner required in Section 8 of the Declaration.
- (d) Estimate of Costs. Immediately after a determination is made to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires.
- (e) Responsibility for Reconstruction and Allocation of Expenses. The responsibility for reconstruction and the allocation of reconstruction expenses shall be as set forth in the Act.

14.2 Reconstruction Fund. If the reconstruction monies are funded by both insurance proceeds and the proceeds of an assessment, the insurance proceeds shall be deemed the first monies paid out, regardless of when the insurance proceeds were received.

15. CONDEMNATION.

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

- 15.2 Determination Whether to Continue Condominium. Whether the Condominium will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after casualty. For this purpose, the taking by eminent domain also shall be deemed to be a casualty.
- 15.3 Disbursement of Funds. If the Condominium is terminated after condemnation, the proceeds of the awards and special Assessments will be deemed to be insurance proceeds and shall be owned and distributed in the manner provided with respect to the ownership and distribution of insurance proceeds if the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced and the property damaged by the taking will be made usable in the manner provided below. The proceeds of the awards and special Assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds after a casualty, or as elsewhere specifically provided herein.
- 15.4 Unit Reduced but Habitable. If the taking reduces the size of a Unit and the remaining portion of the Unit can be made habitable (in the sole opinion and discretion of the Board), the award for the taking of a portion of the Unit shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:
- (a) Restoration of Unit. The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be charged against the Owner of the Unit. The Association shall have the right to collect and enforce any Assessment for such costs and charges in the manner provided in accordance in Section 12 of this Declaration for the enforcement of Assessments.
 - (b) Distribution of Surplus. The balance of the award in respect of the Unit, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, if a mortgagee endorsement has been submitted to the Association, the remittance being made payable jointly to the Owner and such mortgagees in the manner provided in such mortgagee endorsement.

- (c) Adjustment of Shares in Common Elements. If the floor area of the Unit is reduced by the taking, the allocated percentage in the Common Elements, the Common Expenses and the Common Surplus appurtenant to the Unit shall be reduced by multiplying such allocated percentage by a fraction, the numerator of which shall be the area in square feet of the Unit after the taking and the denominator of which shall be the area in square feet of the Unit before the taking. The shares of all Unit Owners in the Common Elements, Common Expenses and Common Surplus shall be restated as follows:
- (i) add the total of all percentages of all Units after reduction as aforesaid (the "Remaining Percentage Balance"); and
 - (ii) divide each percentage for each Unit after reduction as aforesaid by the Remaining Percentage Balance.

The result of such division for each Unit shall be the adjusted percentage for such Unit.

- 15.5 Unit Made Uninhabitable. If the taking is of the entire Unit or so reduces the size of a Unit that it cannot be made habitable (in the sole opinion and discretion of the Board), the award for the taking of the Unit shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:

- (a) Payment of Award. The awards shall be paid first to any Institutional First Mortgagees who have submitted a mortgagee endorsement to the Association in amounts sufficient to pay off their mortgages in connection with each Unit which is made uninhabitable; second, to the Association for any unpaid Assessments and other charges; and third, jointly to the affected Unit Owners and other mortgagees of their Units who have submitted a mortgagee endorsement to the Association.
- (b) Addition to Common Elements. The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in a condition allowing, to the extent possible, for use by all of the Unit Owners in the manner approved by the Board of Directors of the Association; provided that if the cost of the work therefor shall exceed

the balance of the fund from the award for the taking, such work shall be approved in the manner elsewhere required in Section 8 hereof.

- (c) Adjustment of Shares. The shares in the Common Elements, Common Expenses and Common Surplus appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the shares in the Common Elements, Common Expenses and Common Surplus among the reduced number of Units. This shall be effected by restating the shares of continuing Unit Owners as follows:

- (i) Add the total of all percentages of all Units of continuing Owners prior to this adjustment, but after any adjustments made necessary by Section 15.4(c) hereof (the "Percentage Balance"); and
- (ii) Divide the percentage of each Unit of a continuing Owner prior to this adjustment, but after any adjustments made necessary by Section 15.4(c) hereof, by the Percentage Balance.

The result of such division for each Unit shall be the adjusted percentage for such Unit.

- (d) Assessments. If the balance of the award (after payments to the Unit Owners and such Owner's mortgagees as provided above) for the taking is not sufficient to alter the remaining portion of the Unit for use as a part of the Common Elements, the additional funds required for such purposes shall be raised by Assessments against all of the Unit Owners who will continue as Owners of Units after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the applicable percentage shares of those Owners after all adjustments to such shares effected pursuant hereto by reason of the taking.

- 15.6 Taking of Common Elements. Awards for the taking of Common Elements shall be used to render the remaining portion of the Common Elements usable in the manner approved by the Board of Directors of the Association; provided, that if the cost of such work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner required by Section 8 hereof. The balance of the awards for the taking of

Common Elements, if any, shall be distributed to the Unit Owners in the shares in which they own the Common Elements after adjustments to these shares are effected pursuant hereto by reason of the taking or applied by the Association to other Assessments, in the discretion of the Board. If the Board determines to distribute the surplus and there is a mortgage on a Unit, the distribution shall be paid jointly to the Owner and the mortgagees of the Unit who have submitted a mortgagee endorsement to the Association.

- 15.7 Amendment of Declaration. The changes in Units, in the Common Elements and in the ownership of the Common Elements and share in the Common Expenses and Common Surplus that are effected by the taking shall be evidenced by an amendment to this Declaration of Condominium to be approved by, and executed upon the direction of, a majority of the Board.

16. OCCUPANCY AND USE RESTRICTIONS. In order to provide for congenial occupancy of the Condominium Property and for the protection of the values of the Units, the use of the Condominium Property shall be restricted to and shall be in accordance with the following provisions:

- 16.1 Housing for Older Persons. Berkshire B Condominium is intended as housing for older persons. Accordingly, the Members of the Association wish to operate as housing for older persons as that term is used and defined in the applicable Federal and State Fair Housing laws. Accordingly, all Units shall be held for occupancy by persons fifty-five (55) years of age or older, subject to the exceptions noted below, and no permanent occupancy by persons under the age of eighteen (18) shall be permitted. The term occupancy shall have the meaning ascribed in the applicable Federal and State Fair Housing laws and the rules promulgated pursuant thereto. No occupancy shall be permitted by individuals between the ages of eighteen (18) and fifty-four (54), inclusive, unless the Unit is also occupied by at least one person fifty-five (55) years of age or older. Persons under eighteen (18) years of age may visit and occupy a Unit as a guest, but no Unit may be occupied by persons under eighteen (18) years of age for more than sixty (60) days cumulatively for all such visits in a calendar year. Accordingly, the Board shall not approve any proposed transfer to persons who do not intend to hold the Unit out for occupancy by persons fifty-five (55) years of age and older or to persons who intend to occupy the Unit without at least one occupant who is fifty-five (55) year of age or older. The Board may permit sales where the title holders will not include at least one person fifty-five (55) years of age or older on the condition that all purchasers verify in writing in a

form acceptable to the Association that they intend to hold the Unit out for occupancy by persons fifty-five (55) years of age or older or intend to occupy the Unit with at least one person fifty-five (55) years of age or older in occupancy with them at all times. The only exceptions where occupancy by persons between the ages of eighteen (18) and fifty-four (54), inclusive, will be permitted without at least one person fifty-five (55) years of age or older are the surviving spouse of a deceased member if the surviving spouse is between eighteen (18) years of age and fifty-four (54) years of age, inclusive, and the surviving children of a deceased member if surviving children are between eighteen (18) years of age and fifty-four (54) years of age, inclusive, if the surviving children were residing in the Unit with the fifty-five (55) years of age or over Unit Owner prior to his or her death. The foregoing exceptions will only be permitted if the resulting occupancy levels will remain at least eighty (80%) percent as provided below or as required by applicable law, as amended from time to time.

The Board of Directors shall establish policies and procedures for the purpose of assuring that the Board implements the intent of this provision in connection with the screening of sales, leases and all other transfers pursuant to this Declaration and for the purpose of assuring that all of the occupied Units in Berkshire B Condominium operated by the Association are occupied by at least one person fifty-five (55) years of age or older as provided above. The Board of Directors shall take all reasonable steps to insure that the community's status as housing for older persons is preserved and protected. A census will be conducted as often as and in the manner required by applicable law.

- 16.2 Occupancy and Guest Restrictions. Each Unit shall be used as a single family residence only, except as otherwise herein expressly provided. As used herein, "single family" or words of similar import shall be deemed to include up to two (2) persons who are married, or up to two (2) persons not related by blood, marriage or adoption living together as a single housekeeping unit, and their spouses, adult children, siblings, parents or grandchildren.

Under no circumstances may any Unit be used for any business purpose which would cause a level of noise, odor, traffic, debris or other activity inconsistent with residential use.

A guest shall be considered any occupant who is not a Unit Owner or approved tenant.

(i) There shall be no time limitation on guest occupancy provided the guest occupies the Unit with the Owner or approved tenant.

(ii) "Occupancy" by the Owner or approved tenant means that the Owner or approved tenant are sleeping in the Unit overnight, each night that the guest is present in the Unit.

(iii) Any guest(s) who occupies a Unit in excess of thirty (30) days cumulatively in any calendar year, with the Owner in residence, shall be subject to screening as a tenant.

(iv) Any guest(s) who occupies a Unit in excess of thirty (30) days cumulatively in any calendar year, with the approved tenant in residence, shall be subject to screening as a tenant.

(v) Guest occupancy in the absence of the Unit Owner is prohibited.

(vi) Guest occupancy in the absence of the approved tenant is prohibited and will be treated as a prohibited sub-lease and a violation of the provisions of this Declaration.

16.3 Pets. No pets or animals may be kept or brought on any portion of the Condominium property at any time except for fish in a tank, provided that the size of the tank may not exceed five (5) gallons.

16.4 Use of Common Elements. The Common Elements shall be used only for furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units, subject to the reasonable rules and regulations adopted by the Board of Directors from time to time.

16.5 Nuisances. No nuisances (as defined by the Association) shall be allowed on the Condominium Property, nor shall any use or practice be allowed which is a source of annoyance to residents or occupants of Units or which interferes with the peaceful possession or proper use of the Condominium Property by its residents or occupants. The Board of Directors is hereby

authorized to adopt additional rules and regulations regarding noise, including, but not limited to, regulations regarding the types of activities that are permitted, the level of noise that is permitted, and the hours during the day during which certain types of activities are permitted.

- 16.6 No Improper Uses. No improper, offensive, hazardous 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 thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Condominium Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this subsection.
- 16.7 Leases. Subject to the restrictions found in paragraphs 16.8 and 17.4 of this Declaration, the following applies to the leasing of units. No portion of a Unit may be rented. A Unit shall not be leased or rented without the prior written approval of the Association, which approval shall not be unreasonably withheld. No Unit Owner may lease his or her Unit more than once in a twelve (12) month period, measured from the date of commencement of the most recent prior lease or rental agreement. No lease may be for a term of less than four (4) months or more than twelve (12) months. Unit owners remain solely responsible for taxes imposed on rental transactions by any authority having jurisdiction when a Condominium Unit is leased for a short period of time. A Unit shall be considered leased any time it is occupied by a tenant. The Association shall have the right to require that a substantially uniform form of lease be used. The lease shall include a provision granting the Association authority and standing to evict any lessee of a Unit Owner who is in breach or violation of this Declaration, the Bylaws, or the rules and regulations of the Association. In the event the Association approves a rental or lease, such approval of a lease or rental shall not release the Unit Owner from any obligation under this Declaration, and the tenant shall have the right to use the facilities and Common Elements to the exclusion of the Unit Owner unless the tenant waives such rights in writing. Regardless of whether or not expressed in the applicable lease, if any, all Unit Owners shall be jointly and severally liable with their tenants to the

Association for any amount which is required by the Association to effect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant or for the acts and omissions of the tenant(s) or occupant(s) (whether or not subject to a lease) which constitute a violation of, or non-compliance with, the provisions of this Declaration and of any and all rules and regulations of the Association. All tenants shall comply with and be subject to the provisions of this Declaration, the By-Laws, and the Act and the provisions of same shall be deemed expressly incorporated into any lease of a Unit. Subleases are prohibited. In no event may a Unit be listed on a short-term rental or "hotel lodging type" site including but not limited to Airbnb, VRBO, etc. in a manner that is contrary to the leasing provisions of this Declaration or would in any way would contravene the screening authority of the Association with regard to leases.

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

- 16.8 Leasing Moratorium. No Unit Owner acquiring title after the effective date of this amendment may lease his or her Unit for a period of twenty-four (24) consecutive months from the date title is acquired. This twenty-four (24) month period shall run from the date of recording of any instrument transferring any ownership interest in title to the Unit, except for transfers to add members of the Unit Owner's immediate family as titleholders with the Unit Owner or to a trust where such transfers were undertaken for the purpose of estate planning. The only other exceptions to the foregoing moratorium are Units obtained by beneficiaries or heirs of the previous Unit Owner when title was acquired through inheritance or devise. This restriction shall not apply to Units acquired by the Association while the Units are owned by the Association. If at the time of transfer of any interest in title a Unit is already leased pursuant to a lease agreement entered into by the previous Owner, the aforementioned twenty-four (24) month period during which the Unit may not be leased shall commence at

the expiration of the current term of the existing lease which may not be renewed or extended.

16.9 Parking Spaces.

- (a) Each unit is assigned one (1) parking space. Assigned parking spaces may be traded (mutually reassigned between the two parties) by Unit Owners on a temporary basis by mutual agreement of both parties, in writing, submitted to the Board of Directors stating the duration of the mutual reassignment.
- (b) Assigned parking spaces may be traded on a permanent basis by providing a written letter of agreement between the parties to the Association. After receipt of such permanent mutual reassignment of parking spaces, the Association will repaint and renumber the parking spaces. Unit Owners may permanently reassign their parking spaces only one (1) time.
- (c) No assignment of any parking space is permitted if it leaves any Unit with more than one parking space or leaves a Unit without any parking spaces.
- (d) The Board may create additional parking rules from time to time which are not in conflict with this Declaration of Condominium.

16.10 Parking. The following guidelines shall apply with regard to permitted and prohibited vehicles on the Condominium Property (including, without limitation, any assigned or unassigned parking spaces):

- (a) ONLY passenger automobiles, station wagons, sport utility vehicles and passenger vans (vans which are designed and used solely for personal purposes and for the transportation of persons, not cargo) and pick-up trucks (pick-up trucks which are used solely for personal purposes and for the transportation of persons, not cargo) may park on the Condominium Property.
- (b) Without limiting the general provisions set forth above, the following types of vehicles WILL NOT be permitted to park on the Condominium Property, except as provided by sub-paragraph (c) below:

- (i) Commercial vehicles of any type, including, without limitation, any vehicle, including permitted vehicles, showing or displaying any commercial, charitable or institutional (e.g., church or school) markings, signs, displays or otherwise indicating a commercial or other non-personal use or a vehicle used for commercial purposes;
- (ii) Vans which are used, in whole or in part, for business or commercial purposes;
- (iii) Motorcycles, motor scooters, or other two or three wheeled motorized vehicles;
- (iv) Limousines or "stretch" limousines;
- (v) Trucks of any type which are used, in whole or in part, for business or commercial purposes;
- (vi) Agricultural vehicles;
- (vii) Dune buggies;
- (viii) Any trailer or other device transportable by vehicular towing;
- (ix) Semis, tractors or tractor trailers;
- (x) Buses;
- (xi) Travel trailers;
- (xii) Boats and boat trailers with or without boats;
- (xiii) Vehicles which are not fully mechanically operable or not currently licensed or registered for use;
- (xiv) Motorcycle delivery wagons;
- (xv) Recreational vehicles;

- (xvi) Mobile homes or mobile houses;
 - (xvii) Truck mounted campers attached or detached from the truck chassis;
 - (xviii) Motor homes or motor houses;
 - (xix) Motor vehicles not having any bodies whatever, or incomplete buggies;
 - (xx) Swamp buggies; and
 - (xxi) Passenger automobiles that have been converted for racing.
- (c) While engaged in making deliveries or service calls, or if being utilized by Association employees, trucks and other commercial vehicles may be parked in designated areas, but not overnight.
 - (d) All vehicles parked on the property contrary to the provisions contained herein shall be subject to being towed in accordance with Section 715.07, Florida Statutes, as amended from time to time, at the expense of the owner of the vehicle. Towing shall not be the exclusive remedy of the Association.
 - (e) Notwithstanding anything herein to the contrary, but subject to subparagraph (c) above, no vehicle or other device shall be permitted to park on Condominium Property for other than delivery or service call purposes, if its dimensions exceed the dimensions of the parking space assigned or designated.
 - (f) The Board may adopt and amend additional rules and regulations regarding the issuance and display of decals to identify residents' or guests' vehicles and to regulate parking by guests, licensees, invitees, employees, agents or contractors.
- 16.11 Limitations on Ownership. Ownership in Condominium Units shall only be by natural persons except as noted herein. No ownership or possessory interest in a Unit may be conveyed, leased or otherwise transferred to a corporation, partnership, limited liability company or other business entity of any kind. This provision is not applicable to the acquisition of Units by the

Association, the Long Term Lessor, or foreclosing lienholders. Notwithstanding the provisions above regarding the acquisition of title by an entity, any entity acquiring title to a Unit through the foreclosure of a mortgage or other lien or by deed in lieu of foreclosure may hold title, but any person taking occupancy of the Unit while title is held by such entity shall be subject to the prohibitions in this section applicable to leases. No person or permitted entity (other than the Association, Long-Term Lessor or a Mortgagee taking title by foreclosure or deed in lieu of foreclosure) may own or have any ownership interest, directly or indirectly, jointly or individually, in more than two (2) Units in the Condominium operated by the Association including, without limitation, individually, jointly or through his or her spouse or domestic partner, a "straw man" or otherwise or a corporate entity as a partner, officer, director, shareholder, trustee, beneficiary or employee of any partnership, corporation, company, trust or any type of entity owning any ownership interest in or to a Unit. Such additional transfers shall be considered void.

16.12 Washers and Dryers. No washing machines or dryers are permitted in the Condominium Units as long as the Association has a contract for washers and dryers in a common laundry room.

16.13 Prohibition on Smoking. Smoking on the Common Elements, Limited Common Elements and in the Units is strictly prohibited. Smoking shall mean inhaling, exhaling, burning, carrying or possessing any lighted tobacco or other products used in a device for such purpose, including but not limited to cigarettes, cigars, pipes, bongs and any other lighted tobacco or other product. The use of "electronic" or "vapor" cigarettes, cigars, pipes or similar apparatus are likewise defined as smoking and likewise prohibited in the aforementioned areas. The Board may, but is not obligated to, adopt rules and regulations from time to time allowing a smoking section on certain portions of the Common Element.

17. **CONVEYANCES, SALES AND TRANSFERS.** In order to provide for congenial occupancy of the Condominium and Association Property and for the protection of the values of the Units, the use of the Condominium Property shall be restricted to and shall be in accordance with the following provisions:

17.1 Transfers Subject To Approval. The following transfers shall be subject to prior written approval of the Board of Directors and any transfer

undertaken without prior written approval of the Board of Directors shall be void:

- (a) All sales of Units except judicial sales conducted pursuant to a judgment of foreclosure held by an Institutional First Mortgagee encumbering a Unit or public sales conducted by the Palm Beach County Tax Collector resulting from the failure to pay real property taxes.
- (b) All transfers by lease.
- (c) All transfers by gift.
- (d) All transfers by devise or inheritance.
- (e) Any other transfer of title to or possession of a Unit.
- (f) All transfers subject to approval shall require, as a condition of approval, the payment to the Association of a transfer fee not to exceed the maximum amount permitted by the Act.
- (g) All transfers by lease may be conditioned upon the posting of a security deposit not to exceed the maximum amount permitted by the Act.
- (h) A Unit may not be purchased by more than two (2) natural persons. Thereafter, no additional names may be added to the deed.

17.2 Notice to Association. Prior to approving any transfer subject to approval hereunder, the Association shall be entitled to written notice of the transferor's intent to make the transfer with a copy of the documentation evidencing the intended transfer, including, but not limited to, a copy of the contract for sale in the case of a sale, the Letters of Administration issued to a deceased Owner's Personal Representative in the event of a transfer by devise, a copy of the lease in the case of a lease, and a copy of any other documentation pertaining to a proposed transfer and the proposed transferee(s) and all intended occupants as the Association may reasonably require, completed applications on forms prescribed by the Association, a personal interview with the proposed transferee(s) and any other intended occupants of the Unit (which may, at the Board's sole

discretion, be conducted in person or via real time videoconferencing, internet-enabled video-conferencing, or similar electronic or video communication), and such other and further information about the intended transferees or occupants as the Association may reasonably require. The Association will conduct background investigations and screen all prospective purchasers, tenants, and occupants of a Unit, with such screening being conducted by the Association, UCO, or a third-party screening company hired by either the Association or UCO. Such background investigations will include, but are not limited to criminal, financial, employment, previous housing, and credit background checks. No additional occupants, other than those submitted for screening at the time the notice to the Association is provided pursuant to this section, will be approved for residency at the condominiums operated by the Association until the sales transaction has closed. All additional occupants subsequent to the initial approval must also be submitted to the screening process.

- 17.3 Association's Election. Within thirty (30) days of receipt of the last of the information required pursuant to Section 17.2 above, the Association must either approve or disapprove the transfer. Failure on the part of the Association to respond within said thirty (30) day period shall constitute automatic approval for the proposed transfer.
- (a) Approval. In the event the Association approves any transfer subject to approval hereunder, the Association shall deliver to the transferor or the transferor's designee an executed certificate of approval, approving the transfer, executed by an authorized representative of the Association.
 - (b) Disapproval of Transfer of Title. In the event the Board of Directors disapproves a proposed sale, unless good cause exists, as defined below, the Association must, within thirty (30) days of receipt of the last of the information provided pursuant to Section 17.2 hereof, provide the owner with an executed contract from the Association or another purchaser acceptable to the Association, which contract must provide for the purchase of the Unit on the same terms as were set forth in the original proposed contract for sale, which contract must provide for a closing date within thirty (30) days from the date it is delivered to the owner by the Association. If the conveyance or transfer was a gift, devise or inheritance, unless

good cause exists, as defined below, the purchase price shall be determined by an appraiser selected by and at the expense of the substitute purchaser. If the Unit Owner does not agree with the appraisal, the Owner may select and pay for another appraisal and the purchase price shall be the average of the two appraisals. If the Association does not respond to the application within thirty (30) days, as set forth above, or the substitute purchaser provided by the Association does not close within thirty (30) days, as set forth above, the original transaction shall be deemed approved and the Unit Owner may proceed to closing and shall be entitled to a Certificate of Approval as described in Paragraph (a) of this Section 17.3.

If good cause exists for the Association to disapprove a proposed sale, conveyance or transfer by gift, devise or inheritance, the Association shall not be obligated to purchase or provide a substitute purchaser for the Unit. Good cause shall be defined to include the following:

- (1) The applicant fails to qualify for membership in the Association, including, but not limited to, those applicants who fail to qualify for membership because of the restrictions on occupancy or ownership set forth in this Declaration; or
- (2) The person seeking approval (which shall hereinafter include all proposed occupants) has been convicted of, plead no contest to, or has been released from incarceration, probation or community control for:
 - (i) a capital, first or second degree felony involving violence to persons within the past ten (10) years; or
 - (ii) a first or second degree felony involving illegal drugs within the past ten (10) years; or
 - (iii) any drug offense involving the manufacture and/or distribution of illegal drugs regardless of when that conviction, plea or release occurred;

- (iv) a felony involving sexual battery, sexual abuse, or lewd and lascivious behavior regardless of when that conviction, plea or release occurred;
- (3) The person seeking approval has been labeled a sexual offender or a sexual predator by any governmental or quasi-governmental agency regardless of when that conviction, plea or release occurred or when that label occurred;
- (4) The person seeking approval is currently on probation or community control for a felony involving violence to another or damage to property;
- (5) For transfers by sale, the person seeking approval intends to purchase the Unit without paying at least twenty percent (20%) of the purchase price, excluding closing costs, in cash or in some form that would result in a first mortgage secured by the Unit with a loan to value ratio (based upon the bona fide sale price) in excess of eighty percent (80%); the foregoing shall not apply to United States military personal (both active duty or veterans) obtaining loans through the United States Veterans Administrative or comparable organizations; or
- (6) The applicant takes possession of the Unit prior to approval by the Association as provided for herein; or
- (7) The person seeking approval has a documented history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in this condominium or any other condominium or homeowners association as a lessee, guest, owner or occupant of a Unit; or
- (8) The prospective purchaser(s) already owns two (2) Units at the Condominium and the transfer would violate Section 16.11 of this Declaration.
- (9) The Unit is being purchased by more than two (2) natural persons in violation of Section 17.1(h); or

- (10) The applicant fails to comply with the requirements of Section 17.2 hereof; or
- (11) The applicant seeks to obtain a mortgage from a private person or from an organization that is not an Institutional Mortgagee as defined in Article 2.20 of this Declaration.
- (12) The prospective transferees (or one of the prospective transferees, if there is more than one transferee) have:
- (a) a history of financial problems or financial irresponsibility as demonstrated by:
 - (i) a bankruptcy, foreclosure or short sale within the seven (7) years prior to submitting the application to this Condominium; and/or
 - (ii) one or more of the prospective transferees have, either individually or combined, a history of six (6) or more instances on his or her (or their combined) credit report(s) when creditors advised the credit bureau, in the twelve (12) months prior to the submission of their application to the Association, that the account was paid (30) days or more past the due date established for that account.
 - (c) Mortgage Approval and Subordination. All liens against a Unit shall be subordinate and inferior to the Association's lien for Assessments, regardless of the date of recordation of the Association's claim of lien, except to the extent otherwise required by law. Any first mortgage or other liens which become first mortgages which involve an outstanding balance which exceeds eighty percent (80%) of the fair market value of the Unit at the time the mortgage is recorded shall be subordinate and inferior to the Association's claim of lien to the extent the mortgage balance exceeds eighty percent (80%) of the fair market value of the Unit at the time of recordation of the mortgage. The foregoing applies only to Institutional Mortgagees, as defined in Article 2.20 for this Declaration. Mortgagees obtained from private individuals or from

non-Institutional Mortgagees are prohibited. The foregoing shall not apply to United States Military personnel (both active duty and veterans) who obtain loans for greater than eighty percent (80%) through the United States Veterans Administration or comparable program.

- (d) Compliance with Fair Housing Laws. There shall be no limitation upon sales, leases, or occupancy of any Unit based upon race, sex, color, religion, national origin, disability, sexual orientation, age, marital status, or gender identity or expression, or any other protected classes which may be added by federal, state, or county governments from time to time. The Association may make reasonable accommodations, including reasonable waiver of the covenants and restrictions of the Condominium Documents, when necessary to afford handicapped or disabled individuals the opportunity to enjoy the Condominium premises, or to comply with other legal requirements.

- 17.4 Leasing. The Association must approve or disapprove a lease within thirty (30) days of receipt of the last of the information provided pursuant to Section 17.2 hereof. The Association may disapprove a lease on any reasonable grounds, including, but not limited to, any of the provisions defining good cause for transfers of title which might be applicable.

18. **COMPLIANCE AND DEFAULT.** Each Unit Owner and every occupant, lessee, guest, agent, employee or contractor of a Unit Owner and the Association shall be governed by and shall comply with the terms of this Declaration of Condominium and all exhibits annexed hereto, and the rules and regulations adopted pursuant to those documents, as the same may be amended from time to time. The Association (and Unit Owners, if appropriate) shall be entitled to the following relief in addition to the remedies provided by the Act:

- 18.1 Negligence. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement made necessary by his or her violation of any portion of this Declaration or by his or her negligence or intentional misconduct or by that of any member of his family or his or her guests, agents, employees or contractors, but only to the extent such expense is not met by the proceeds of insurance actually collected by the Association in respect of such negligence or intentional misconduct. Any such expense advanced by the Association, together with interest, costs and attorneys'

fees, shall be secured by a lien against the Unit enforceable in the same manner as an Assessment under Article 12 hereof.

- 18.2 Compliance. In the event a Unit Owner or occupant fails to comply with such Unit Owner's obligations under this Declaration or fails to observe and comply with any other provision of the Act, the Declaration, the By-Laws, the Articles of Incorporation of the Association, the rules and regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required, the Association shall have the right to proceed in a court of equity to require performance and/or compliance, to sue in a court of law for damages, and levy a special charge against the Unit Owner and the Unit for the sums necessary to do whatever work is required to put the Unit Owner or Unit in compliance. Such charge, together with interest, costs and attorneys' fees, shall be secured by a lien against the Condominium Parcel, enforceable in the same manner as Assessments levied under Article 12 hereof.
- 18.3 Fines. In the event a Unit Owner or anyone for whom Unit Owner is responsible fails to comply with a provision of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required, the Association shall have the right to impose a fine against the Unit Owner and the Unit. The amount of any fine shall be determined by the Board of Directors of the Association, but in any event shall not exceed any maximum amount permitted by the Condominium Act, as such Act may be amended from time to time.
- 18.4 Suspension of Use Rights. In addition to all other remedies provided hereunder, the Association shall have the right to suspend the rights of the Unit Owner, his or her tenants, guests, licensees or invitees, to use any portion of the Common Elements or facilities during any period of time during which the Unit Owner is delinquent in the payment of Assessments or any other financial obligation to the Association.
- 18.5 Suspension of Voting Rights. In addition to the remedies provided in Section 12 hereof and by applicable law, the Association may suspend the voting rights of any Owner who is delinquent more than ninety (90) days in the payment of any monetary obligation to the Association.

- 18.6 Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Unit Owner or the Association to comply with the requirements of the Act, this Declaration, the By-Laws, the Articles of Incorporation of the Association, or the rules and regulations, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (including appellate attorneys' fees).
- 18.7 No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Act, this Declaration, the By-Laws, the Articles of Incorporation of the Association, or the rules and regulations, as the same may be amended from time to time, shall not constitute a waiver of their right to do so thereafter.
- 18.8 Election of Remedies. All rights, remedies and privileges granted to the Association or a Unit Owner 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 neither be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges as may be granted by the Condominium documents.

19. TERMINATION.

- 19.1 The Condominium may be terminated in the manner provided in the Condominium Act. However, voluntary terminations would require the approval of the Long Term Lessor, if the Long Term Lease exists at the time of the contemplated termination.
- 19.2 Termination due to economic waste or impossibility as defined in the Act shall not require the approval of the Long Term Lessor.

- 20. RESTRICTIONS AND EASEMENTS.** The real property submitted to Condominium ownership hereby is subject to conditions, limitations, restrictions, dedications, reservations of record, taxes, applicable zoning ordinances now existing or which may hereafter exist, easements for Utility Service for the United States Post Office authorities, and any right of the United States of America, State of Florida, or any governmental agency as to any submerged lands and as to any lands lying below the natural, ordinary high water line of the surrounding bodies of water, easements for ingress and egress for pedestrian and vehicular purposes,

easements for Utility Service and drainage now existing or hereafter granted by the Association for the benefit of such persons as the Association designates.

An easement, whether heretofore or hereafter created under and pursuant to this Declaration shall constitute a covenant running with the Land of the Condominium, and, notwithstanding any other provisions of this Declaration, may not be substantially amended or revoked in such a way as to unreasonably interfere with the proper and intended use and purpose and shall survive the termination of the Condominium. The Unit Owners of this Condominium do hereby designate the Association as their lawful attorney-in-fact to execute any and all instruments on their behalf for the purposes of creating all such easements as are contemplated by the provisions hereof.

21. **COVENANT RUNNING WITH THE LAND.** All provisions of this Declaration, the Articles, By-Laws and applicable rules and regulations of the Association shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the Association, the Unit Owners, and their respective heirs, personal representatives, successors and assigns, but the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All present and future Unit Owners and occupants of Units shall be subject to and shall comply with the provisions of this Declaration and such Articles, By-Laws and applicable rules and regulations, as they may be amended from time to time. The acceptance of a deed of conveyance, or the entering into of a lease, or the entering into occupancy of any Unit, shall constitute an adoption and ratification of the provisions of this Declaration, and the Articles, By-Laws and applicable rules and regulations of the Association, as they may be amended from time to time, including, but not limited to, a ratification of any appointments of attorneys-in-fact contained herein.

22. **ADDITIONAL PROVISIONS.**

- 22.1 **Notices.** All notices to the Association required or desired hereunder or under the By-Laws of the Association shall be sent by first class mail or hand delivery to the Association at its office at the Condominium, or to such other address as the Association may hereafter designate from time to time by notice in writing to all Unit Owners, unless another manner of delivery is specifically required by the Condominium Act or this Declaration or the By-Laws. Except as provided specifically in the Act, all notices to any Unit

Owner shall be sent by first class mail to the Condominium address of such Unit Owner, or such other address as may have been designated by him from time to time, in writing, to the Association. All notices to mortgagees of Units shall be sent by first class mail to their respective addresses, or such other address as may be designated by them from time to time, in writing to the Association. All notices shall be deemed to have been given when mailed in a postage prepaid sealed wrapper, except notices of a change of address, which shall be deemed to have been given when received, or five (5) business days after proper mailing, whichever shall first occur.

- 22.2 Exhibits. There is hereby incorporated in this Declaration all materials contained in the Exhibits annexed hereto, except that as to such Exhibits, any conflicting provisions set forth therein as to their amendment, modification, enforcement and other matters shall control over those hereof.
- 22.3 Signature of President and Secretary. Wherever the signature of the President of the Association is required hereunder, the signature of a Vice-President may be substituted therefor, and wherever the signature of the Secretary of the Association is required hereunder, the signature of a Treasurer may be substituted therefor, provided that the same person may not execute any single instrument on behalf of the Association in two separate capacities.
- 22.4 Governing Law. Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration, the Exhibits annexed hereto or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Florida.
- 22.5 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 Declaration, the Exhibits annexed hereto, or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.
- 22.6 Waiver. No provisions contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce the same, without regard to the number of violations or breaches which may occur.

- 22.7 Ratification. Each Unit Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law or otherwise), and each occupant of a Unit, by reason of his occupancy, shall be deemed to have acknowledged and agreed that all of the provisions of this Declaration, and the Articles and By-Laws of the Association, and applicable rules and regulations, are fair and reasonable in all material respects.
- 22.8 Gender; Plurality. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.
- 22.9 Captions. The captions herein and in the Exhibits annexed hereto are inserted only as a matter of convenience and for ease of reference and in no way define or limit the scope of the particular document or any provision thereof.

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION**

CENTURY VILLAGE BERKSHIRE B CONDOMINIUM ASSOCIATION, INC.

NOTE: This document is a substantial rewording of the Articles of Incorporation filed with the Florida Secretary of State on May 8, 1978.

For historical reference only the original registered agent was Morris Friedman and the original registered agent address was Berkshire B-50, Century Village, West Palm Beach, Florida.

The Incorporator, by these Articles, does so for the purpose of forming a not-for-profit corporation pursuant to the laws of the State of Florida (Chapter 617, Florida Statutes), and hereby adopts the following Articles of Incorporation:

ARTICLE I

NAME

The name of the Corporation shall be CENTURY VILLAGE BERKSHIRE B CONDOMINIUM ASSOCIATION, INC. For convenience, the Corporation shall be referred to in this instrument as the "Association" or the "Corporation," these Articles of Incorporation as the "Articles," and the By-Laws of the Association as the "By-Laws."

ARTICLE II

PURPOSE

The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act, Chapter 718, Florida Statutes (the "Act"), as amended from time to time, for the operation of that certain condominium to be known as Berkshire B Condominium (the "Condominium").

ARTICLE III

DEFINITIONS

The terms used in these Articles shall have the same definitions and meaning as those set forth in the Declaration of Condominium ("Declaration") for the Condominium, and the By-laws of the Association, unless herein provided to the contrary, or unless the context otherwise requires.

ARTICLE IV

POWERS

The powers of the Association shall include and be governed by the following:

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

4.2 Enumeration. The Association shall have all the powers and duties set forth in the Act (except as to variances in these Articles and the Declaration which are permitted by the Act), and all of the powers and duties reasonably necessary to operate the Condominium pursuant to its Declaration, and as they may be amended from time to time, including, but not limited to, the following:

A. To make and collect regular and Special Assessments and other charges against Members as Unit Owners, and to use the proceeds thereof in the exercise of its powers and duties.

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

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

D. To purchase insurance upon the Condominium and insurance for the protection of the Association, its officers, directors, and Members as Unit Owners, and such other parties as the Association may determine in the best interest of the Association.

E. To make and amend reasonable rules and regulations for the maintenance, operation and use of the Condominium Property and for all other lawful purposes.

F. To screen prospective purchasers, tenants, and occupants and to approve or disapprove the transfer, mortgaging, ownership and possession of Units as may be provided by the Declaration, and to collect a transfer fee as provided for in the Act.

G. To enforce by legal means the provisions of the Act, the Declaration, these Articles, the By-laws, and the rules and regulations for the use of the Condominium.

H. To contract for the management of the Condominium, and to delegate to the party with whom such contract has been entered into all of the powers and duties of the Association, except (1) those which require specific approval of the Board of Directors or the membership of the Association; (2) those which are incapable of being delegated as same may be contrary to the Declaration or the By-laws; (3) those which are contrary to the Statutes of the State of Florida; and (4) wherein a delegation is a power and duty which by its very nature is a decision or fiduciary responsibility to be made by the Board of Directors and is therefore not susceptible of delegation.

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

J. To enter into agreements with other parties for easements or sharing arrangements or recreational facilities as the Board of Directors may deem in the best interests of the Condominium.

K. To borrow money on behalf of the Association, which must be approved by a majority of the entire Board, when required in connection with the operation, care, upkeep, alteration, and maintenance of the Common Elements.

4.3 Assets of the Association. All funds and the titles of all properties acquired by the Association and their proceeds shall be held for the benefit and use of the Members in accordance with the provisions of the Declaration, these Articles, and the By-Laws.

4.4 Limitation. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration and the By-Laws.

ARTICLE V

MEMBERS

5.1 Membership. Only natural persons may be Members of the Association. Except for trusts established for estate planning purposes, ownership by business entities, including, but not limited to, corporations, limited liability companies and partnerships is prohibited. The foregoing prohibition shall not apply to the Association, the Long Term Lessor, or to mortgagees acquiring title to Units through foreclosure or deed in lieu of foreclosure. The Members of the Association shall consist of all of the record Owners of Units in the Condominium; and, after termination of the Condominium, if same shall occur, the Members of the Association shall consist of those who are Members at the time of the termination, and their successors and assigns. Membership shall be established by the acquisition of ownership of fee title to, or fee interest in, a Condominium Parcel in the Condominium, whether by conveyance, devise, judicial decree, or otherwise subject to the provisions of the Declaration, and by the recordation amongst the Public Records of Palm Beach County, Florida, of the deed or other instrument establishing the acquisition and designating the parcel affected thereby, and by the delivery to the Association of a true copy of such deed or other instrument. The new Owner designated in such deed or other instrument shall thereupon become a Member of the Association, and the membership of the prior owner as to the parcel designated shall be terminated.

5.2 Assignment. The share of a Member in the funds and assets of the Association, in its Common Elements and its Common Surplus, and membership in this Association, cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit for which that share is held.

5.3 Voting. On all matters upon which the membership shall be entitled to vote, the vote for each Unit shall be as specified in the Declaration. Said votes shall be exercised or cast in the manner provided by the Declaration and By-Laws. Any person or entity owning more than one (1) Unit shall be entitled to the cumulative total of votes allocated to Units owned.

5.4 Meetings. The By-Laws shall provide for an annual meeting of Members, and may make provision for regular and special meetings of Members other than the annual meeting.

ARTICLE VI

TERM OF EXISTENCE

The Association shall have perpetual existence.

ARTICLE VII

INCORPORATOR

The name and address of the subscribers to these Articles of Incorporation is as follows:

Morris Friedman	Berkshire B-50, Century Village West Palm Beach, Florida 33409
Harry Holzberg	Berkshire B-36, Century Village West Palm Beach, Florida 33409
Estelle Chasen	Berkshire B-48, Century Village West Palm Beach, Florida 33409

ARTICLE VIII

OFFICERS

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

ARTICLE IX

DIRECTORS

9.1 Number and Qualification. The property, business and affairs of the Association shall be managed by a board consisting of the number of directors required in the By-Laws. All directors must be Members of the Association.

9.2 Duties and Powers. All of the duties and powers of the Association existing under the Act, Chapter 617, Florida Statutes, the Declaration, these Articles and the By-laws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by Unit Owners when that is specifically required.

9.3 Election; Removal. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by the By-laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws.

ARTICLE X

INDEMNIFICATION

10.1 Indemnity. To the fullest extent permitted by Florida law:

(A) The Association shall indemnify any person who is or was a party to any proceeding by reason of the fact that he or she is or was a Director, officer, committee member or employee of the Association against liability incurred in connection with such proceeding.

(B) The Association shall indemnify any person who is a party to any proceeding brought by or in the right of the corporation, by reason of the fact that he or she is or was a Director, officer, committee member or employee of the Association against liability incurred in connection with such proceeding.

(C) The foregoing indemnity shall include, without limitation, costs and attorney's fees incurred and amounts paid in settlement not exceeding, in the judgment of the Board of Directors, the actual and reasonable expenses incurred in connection with the defense or settlement of such proceeding, including appeal thereof.

10.2 Limitations. The foregoing indemnity obligations shall be subject to such limitations and restrictions as are now or hereafter set forth in the applicable Statutes.

10.3 Included. The indemnification provided for herein shall include any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, whether formal or informal, any appeal in any such action, suit or proceeding, and any inquiry or investigation that might lead to such an action, suit or proceeding.

10.4 Recovery of Expenses. Expenses incurred by any person entitled to indemnification hereby shall be paid in advance of the final disposition of the proceeding upon receipt of any undertaking acceptable to the Association, by or on behalf of such person to repay such amount if he or she is ultimately found not to be entitled to indemnification pursuant to law.

10.5 Non-exclusive. The indemnification and advancement of expenses provided pursuant to this section are not exclusive, and, to the extent permitted by law, the Association may make any other or further indemnification or advancement of expenses if approved by a majority of the disinterested Directors or vote of the Members, or as permitted under any By-Law or agreement, to the extent permitted by law.

10.6 Application for Indemnity. Nothing herein is intended to restrict a party's authority, as provided by law, to apply for indemnification or advancement of expenses, or both, to the court conducting the proceeding, to the circuit court, or to another court of competent jurisdiction.

ARTICLE XI

AMENDMENTS

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

11.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

11.2 Adoption. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors or by not less than fifty percent (50%) of the Members of the Association. A proposed amendment must be approved by not less than seventy-five percent (75%) of the total Voting Interests of the Association voting in person, by proxy or by any other lawful means, at a meeting at which a quorum is present or by written agreement provided a quorum participates in the vote by written agreement.

11.3 Limitation. No amendment shall make any changes in the qualifications for membership nor in the voting rights or property rights of Members.

11.4 Recording. A copy of each amendment shall be filed with and certified by the Secretary of State pursuant to the provisions of the applicable Florida Statutes, and a copy shall be recorded in the Public Records of Palm Beach County, Florida.

11.5 Scrivener's Errors. The Board of Directors may correct and record corrections to scrivener's errors in these Articles of Incorporation without the necessity of Unit Owner approval.

ARTICLE XII

ADDRESS

The principal place of business of the Corporation shall be located at 28 Berkshire B, West Palm Beach, Florida 33417, but the Corporation may maintain offices and transact business in such other places within or without the State of Florida as may from time to time be designated by the Board of Directors.

ARTICLE XIII

INITIAL REGISTERED OFFICE ADDRESS AND NAME OF REGISTERED AGENT

The registered agent of this Corporation shall be Becker & Poliakoff, P.A., 625 North Flagler Drive, 7th Floor, West Palm Beach, Florida 33401.

ACCEPTANCE BY REGISTERED AGENT

HAVING BEEN NAMED TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE STATED NON-PROFIT CORPORATION, AT THE PLACE DESIGNATED IN ARTICLE XIII OF THESE ARTICLES OF INCORPORATION, THE UNDERSIGNED HEREBY AGREES TO ACT IN THIS CAPACITY, AND FURTHER AGREES TO COMPLY WITH THE PROVISIONS OF ALL STATUTES RELATIVE TO THE PROPER AND COMPLETE DISCHARGE OF HIS DUTIES.

DATED THIS 28th DAY OF APRIL, 2020.

BECKER & POLIAKOFF, P.A.
(Registered Agent)



By: _____
Mark D. Friedman, Esq.

**AMENDED AND RESTATED
BY-LAWS
OF
CENTURY VILLAGE BERKSHIRE B CONDOMINIUM ASSOCIATION, INC.
A FLORIDA NOT-FOR-PROFIT CORPORATION**

NOTE: This document is a substantial rewording of the original text of the By-Laws attached to the Declaration of Condominium executed by Developer on March 24, 1972, recorded on April 17, 1972, in Official Records Book 2002, Page 783, of the Public Records of Palm Beach County.

ARTICLE 1

GENERAL

1.1 **The Name.** The name of the Corporation shall be CENTURY VILLAGE BERKSHIRE B CONDOMINIUM ASSOCIATION, INC., hereinafter referred to as the "Association."

1.2 **Principal Office.** The principal office of the Corporation shall be at 28 Berkshire B, West Palm Beach, Florida 33417, or at such other place as may be subsequently designated by the Board of Directors.

1.3 **Identity.** In addition to these By-Laws being the By-Laws of the Association, these By-Laws are established pursuant to the Florida Condominium Act, Chapter 718, Florida Statutes as amended from time to time ("Act"), for the purpose of administering, operating and managing Century Village Berkshire B Condominium (the "Condominium").

1.4 **Definition.** As used herein, the term "Corporation" shall be the equivalent of "Association," and all other words as used herein, unless otherwise defined in these By-Laws, shall have the same definitions as attributed to them in the Declaration of Condominium of Berkshire B Condominium ("Declaration"). Any terms not defined in the Declaration shall have those definitions established by the Condominium Act.

ARTICLE 2

MEMBERSHIP AND VOTING PROVISIONS

2.1 **Membership.** Unless otherwise provided in the Declaration and except for trusts established for estate planning purposes, ownership of Units and membership is limited to natural persons. Entities, including, but not limited to, corporations, limited liability companies and partnerships may not own Units at the Condominium. The foregoing limitation on corporate ownership shall not apply to Units owned by the Association, Long Term Lessor, or to mortgagees acquiring title to Units through foreclosure or deed in lieu of foreclosure. Membership in this Association shall be limited to record owners of Units in the Condominium. Transfer of Unit ownership, either voluntarily or by operation of law, shall automatically terminate membership, and the transferee shall automatically become a Member of this Association. If Unit ownership is vested in more than one person, all of the persons owning a Unit shall be authorized to attend meetings. If Unit ownership is vested in, to the extent permitted by the Declaration, an entity, the entity may designate a representative or an individual officer or employee to exercise its rights as a Member.

2.2 **Voting.** On all matters upon which the membership shall be entitled to vote, the vote for each Unit shall be as specified in the Declaration and the Articles of Incorporation. Said votes shall be exercised or cast in the manner provided by the Declaration and these By-Laws. Any person or entity owning more than one (1) Unit, if multiple unit ownership is permitted by the Declaration of Condominium, shall be entitled to the cumulative total of votes allocated to Units owned. The vote of a Unit shall not be divisible. Unless otherwise set forth in the Declaration of Condominium, the Articles of Incorporation, the Long Term Lessee, herein or in the Act, in which event the voting percentage required in said Declaration of Condominium, Articles of Incorporation, the Long Term Lese, these By-laws or the Act shall control, matters shall be voted on by the membership of the Association and shall be determined by a vote of a majority of the voting interests ("Voting Interests") present and voting, in person or by proxy, at any meeting at which a quorum is established, or by written consent in lieu of a meeting. If a Unit is owned by more than one (1) Unit Owner and the Owners cannot come to a consensus on how a vote should be cast, the Unit shall be counted for purposes of establishing a quorum, but the vote for that Unit shall not be counted for any other purpose. Notwithstanding the foregoing, the Association may, if the Board elects to do so, conduct elections and other unit owner votes through an internet-based online voting system if unit owners' consent, in writing, to online voting and the requirements of the Act are met.

2.3 **Quorum.** Unless otherwise provided in these By-Laws, the presence in person or by proxy of a majority of the Voting Interests of the Association shall constitute a quorum. A quorum is not required for elections pursuant to Section 4.2 hereof.

2.4 **Voting Procedure.** Votes may be cast in person, by written agreement or by proxy. All proxies shall be in writing, signed by the person entitled to vote, shall be filed with the Secretary of the Association prior to or at the meeting at which they are to be used, or prior to or at any lawful adjournment thereof, and shall be effective only for the specific meeting for which originally given and any lawful adjournment thereof. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the Unit Owner executing it.

ARTICLE 3

MEMBERSHIP MEETINGS

3.1 **Place and Time.** All meetings of Members shall be held at the principal office of the Association or at such other place within Palm Beach County, Florida, and at such time as shall be designated by the Board and stated in the notice of meeting.

3.2 **Notices.** It shall be the duty of the Secretary to send by regular mail, hand delivery or electronic transmission a notice of each annual or special meeting to each Unit Owner and to post a copy of said notice in a conspicuous place on the property at least fourteen (14) continuous days but not more than sixty (60) days prior to such meeting. The Board may adopt a rule to provide that, in lieu of posting notice of a members' meeting on the Condominium Property, the notice and agenda may be conspicuously posted and repeatedly broadcast on a closed-circuit cable television system serving the Association in the manner required by the Act. Notice of any meeting shall list the time, place and purpose thereof and shall incorporate an identification of agenda items. All notices shall be mailed, hand delivered or sent by electronic transmission to the address last furnished to the Association by the Unit Owner as it appears on the books of the Association to each Unit Owner. Proof of posting, delivery or mailing of the notice (if required) shall be given by the affidavit of the person serving the notice, or a United States Postal Service Certificate of mailing, shall be included in the official records of the Association affirming that the notice was mailed or hand delivered in accordance with Florida law. Notice of specific meetings may be waived in writing before or after the meeting. Electronic transmission may only be used to send notices to those Owners who specifically consent, in writing, to receiving notice in that manner.

3.3 **Annual Meeting.** The annual meeting for the purpose of electing directors and transacting any other authorized business shall be held during the month of January at such date and time as shall be selected by the Board of Directors from time to time. At the annual meeting, the Members shall elect a Board by plurality vote (cumulative voting prohibited), and shall transact such other business as may be properly brought before the meeting.

3.4 **Special Meeting.** Special meetings of the Members for any purpose, unless otherwise prescribed by statute, may be called by the President, or shall be called by the President or Secretary at the request, in writing, of a majority of the Board of Directors or at the request, in writing, of Members representing one-fourth (1/4) of the total voting interests in the Association. Such requests shall state the purpose of the proposed meeting. Business transacted at all special meetings shall be confined to the subjects stated in the notice of meeting.

3.5 **Action by Members Without a Meeting.** Notwithstanding anything herein to the contrary, any action required or permitted to be taken at any annual or special meeting of Members may be taken by written agreement without a meeting, signed by the Members (or persons authorized to cast the vote of any such Members as elsewhere herein set forth), so long as at least a quorum of the members participates and so long as the number of votes required to authorize or approve such action is obtained. Voting by written agreement shall be done in accordance with the provisions of the applicable Statute, as same may be amended from time to time.

3.6 **Adjourned Meeting.** If any meeting of Members cannot be organized because a quorum is not present, either in person or by proxy, the meeting shall be adjourned from time to time until a quorum is present. If any agenda item at a meeting of the members cannot be approved because approval of more than a quorum of the members is required but such required percentage is not present or is not achieved, the meeting may be adjourned from time to time until the requisite vote is achieved.

3.7 **Order of Business.** The order of business at annual Members' meetings and as far as practical at other Members' meetings, shall be:

- A. Calling to Order by President;
- B. Appointment of inspectors of election;
- C. Election of directors;
- D. Calling of the roll and certifying of proxies;

- E. Proof of notice of the meeting or waiver of notice;
- F. Reading and disposal of any unapproved minutes;
- G. Reports of officers;
- H. Reports of committees;
- I. Unfinished business;
- J. New business;
- K. Adjournment.

ARTICLE 4

DIRECTORS

4.1 **Membership.** The affairs of the Association shall be managed by a Board consisting of seven (7) directors. All directors must be Members of the Association.

4.2 **Election of Directors.** Election of directors shall be conducted in the following manner:

A. Election of directors shall be held at the annual Members' meeting.

B. The Board of Directors shall be elected by written ballot or voting machine. Proxies shall not be used in the election of the Board of Directors, either in general elections or elections to fill vacancies, except for vacancies caused by the recall of a majority 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. Elections shall be decided by a plurality of those ballots cast. Cumulative voting is prohibited. There shall be no quorum requirement; provided, however, at least twenty percent (20%) of the eligible votes must cast a ballot in order to have a valid election.

C. Written notice of the scheduled election shall be mailed, hand delivered or electronically transmitted to each Member at his last known address as it appears on the books of the Association. The first notice of the date of the election shall be mailed, hand delivered or electronically transmitted to each Member not less than sixty

(60) days before the scheduled election. The first notice must contain the name and correct mailing address of the Association.

D. Any Unit Owner or other eligible person desiring to be a candidate for the Board shall give written notice to the Association not less than forty (40) days before the scheduled election. Written notice shall be effective when received by the Association.

E. Upon the timely request of the candidate as set forth in this subparagraph, the Association shall include, with the second notice of election described in Paragraph F below, a copy of an information sheet which may describe the candidate's background, education and qualifications as well as any other factors deemed relevant by the candidate. The information sheet shall not exceed one side of a sheet which shall be no larger than eight and one-half (8-1/2) by eleven (11) inches. Any candidate desiring the Association to mail or personally deliver copies of an information sheet to the eligible voters must furnish the information sheet to the Association not less than thirty-five (35) days before the election. The Association is not liable for the contents of the information sheets prepared by the candidates. The Association shall not edit, alter or otherwise modify the content of the information sheet. The original copy provided by the candidate shall become part of the official records of the Association.

F. Not less than fourteen (14) days before the scheduled election, the Association shall mail, deliver or electronically transmit to the eligible voters at the addresses listed in the official records of the Association a second notice of the election, together with a ballot and any information sheets timely submitted by the candidates. Each Unit shall receive one (1) ballot. The second notice and accompanying documents shall not contain any communication by the Board which endorses, disapproves or otherwise comments on any candidate. Accompanying the ballot shall be an outer envelope addressed to the person or entity authorized to receive the ballots and a smaller inner envelope in which the ballot shall be placed. The exterior of the outer envelope shall indicate the name of the voter and the Unit or Unit numbers being voted and shall contain a signature space for the voter. Once the ballot is completed, the voter shall place the completed ballot in the inner smaller envelope and seal that envelope. The inner envelope shall then be placed within the larger outer envelope and the outer envelope shall then be sealed. Each inner envelope shall contain only one ballot, but if a person owns more than one Unit and is, therefore, entitled to cast more than one ballot, the separate inner envelopes required may be enclosed within a single outer envelope. The voter shall sign the exterior of the outer envelope in the space provided for his or her signature. The outer envelope shall either be mailed or hand delivered to the Association. Upon receipt by the Association, no ballot may be rescinded or changed.

G. The written ballot shall indicate in alphabetical order by surname, each and every Unit Owner or other eligible person who desires to be a candidate for the Board and who gave written notice to the Association not less than forty (40) days before a scheduled election, unless such person has, prior to the mailing of the ballot, withdrawn his candidacy in writing. No ballot shall indicate which candidates are incumbents on the Board. No write-in candidates shall be permitted. No ballot shall contain a section providing for the signature of a voter. Envelopes containing ballots received by the Association shall be retained and collected by the Association and shall not be opened except in the manner hereinafter provided and in accordance with the Florida Condominium Act.

H. Any envelopes containing ballots not prevalidated as provided in subsection 4.2(I) below shall be collected by the Association and shall be transported to the location of the election. An impartial committee of persons appointed by the Board shall validate and process the ballots. The Association shall have available additional blank ballots at the meeting for distribution to the eligible voters who have not cast their votes. Each ballot distributed at the meeting shall be placed in an inner and outer envelope as provided in subsection 4.2(F) hereof. At the meeting, as the first order of business, ballots not yet cast shall be collected. Next, the signatures and Residential Unit identifications on the outer envelopes shall be checked against the list of qualified voters, unless previously verified as set forth in subsection 4.2(I) below. Any exterior envelope not signed by the eligible voter shall be marked "disregarded" and any ballots contained therein shall not be counted. The voters shall be checked off on the list as having voted. Then, in the presence of any Unit Owners in attendance, and regardless of whether a quorum is present, all inner envelopes shall be first removed from the outer envelopes and shall be placed in a receptacle. Upon the commencement of the opening of the outer envelopes, the polls shall be closed, and no more ballots shall be accepted. Inner envelopes shall then be opened and the ballots shall be removed and counted in the presence of any Unit Owners. Any inner envelopes containing more than one ballot shall be marked "disregarded" and any ballots contained therein shall not be counted. All envelopes and ballots, whether disregarded or not, shall be retained as part of the official records of the Association for such time period as may be required by the Act. Board members whose terms expire and who are not reelected shall relinquish their Board positions, and those positions shall be assumed by the duly elected Board members.

I. The Association may verify outer envelope information in advance of the meeting by following the procedure set forth in Section 718.112(2)(d)(3), Florida Statutes, and Section 61B-23.0021(10), Florida Administrative Code, as either may be amended from time to time.

J. The Board shall not create or appoint any committee for the purpose of nominating a candidate or candidates for election to the Board. However, the Board may create or appoint a search committee which shall not have the authority to nominate any candidate, but may encourage eligible and qualified persons to become candidates for the Board.

K. The provisions of Paragraphs (B) through (J) of this Section 4.2, are in accordance with Section 718.112(2)(d)(3), Florida Statutes, and Section 61B-23.0021, Florida Administrative Code. In the event such Statute or Code is repealed, the Board shall determine the procedure for elections of directors. In the event said Statute or Code is amended, these By-Laws shall be deemed automatically amended to comply with any such changes.

L. Notwithstanding anything contained herein to the contrary, an election is not necessary unless there are more eligible candidates than vacancies. In such case, not later than the date of the scheduled election, the Association shall call and hold a meeting of the membership to announce the names of the new Board members, or shall notify the Unit Owners that one or more Board member positions remain unfilled, as appropriate under the circumstances. In the alternative, the announcement may be made at the annual meeting.

M. If the office of any director becomes vacant by reason of death, resignation, retirement, disqualification, or otherwise, a majority of the remaining directors, though less than a quorum, shall choose a successor who shall hold office for the balance of the unexpired term of office. The election held for the purpose of filling said vacancy may be held at any regular or special meeting of the Board.

4.3 **Organizational Meeting**. The organizational meeting of a newly elected Board shall be held after their selection within ten (10) days of their election, at such place and time as shall be fixed by the directors at the meeting at which they were elected. Notice of such organizational meeting, which notice specifically incorporates 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.

4.4 **Term**. The term of each Director's service shall be for two (2) years and subsequently until his successor is duly elected and qualified, or until he or she is removed in the manner elsewhere provided. The directors shall serve staggered terms, with four (4) directors being elected in even numbered years and three (3) directors being elected in odd numbered years. To implement staggered terms, at the first contested election after the effective date of this amendment, the three (3) or four (4) candidates (depending upon whether it is an even numbered or an odd numbered year) with the highest number of

votes shall serve a two (2) year term, and the remaining persons elected to the Board shall serve a one (1) year term. If there is not a contested election at the first annual meeting after the effective date of this amendment, the persons seated on the Board shall decide among themselves who shall serve two (2) years and who will serve one (1) year in accordance with these provisions or the implementation of staggered terms will be delayed until the next contested election and all Board members will continue to serve one (1) year terms until staggered terms are implemented.

4.5 Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the directors. Notice of regular meetings shall be given to each director, personally or by mail, telephone, facsimile, or electronic mail, and shall be transmitted at least forty-eight (48) hours prior to the meeting. Regular meetings of the Board and only those committee meetings which committees have the authority to take final action on behalf of the Board or make recommendations to the Board regarding the Association budget, shall be open to all Unit Owners, and notice of such meetings shall be posted conspicuously at the Condominium forty-eight (48) continuous hours preceding the meeting for the attention of the Members of the Association except in the event of an emergency. However, written notice of any meeting at which non-emergency special assessments, or at which amendments to rules regarding Unit use will be proposed, discussed or approved, shall be mailed, hand delivered or electronically transmitted to the Unit Owners and posted conspicuously on the Condominium property not less than fourteen (14) days prior to the meeting. Evidence of compliance with this fourteen (14) day notice requirement shall be made by an affidavit executed by the person providing the notice and filed among the official records of the Association. The Board may adopt a rule to provide that, in lieu of posting notice of a regular Board meeting on the Condominium Property, the notice and agenda may be conspicuously posted and repeatedly broadcast on a closed-circuit cable television system serving the Association in the manner required by the Act. Notice of any meeting where assessments against Unit Owners are to be considered for any reason shall contain a statement that assessments will be considered and the nature of any such assessments. The right of a Member to attend regular Board meetings includes the right to speak at such meetings with reference to all designated agenda items. A Member does not have the right to speak with reference to items not specifically designated on the agenda, but the Board, in its discretion, may permit a Member to speak on such items. The Board may adopt reasonable rules governing the frequency, duration, and manner of Unit Owner statements. Any Member may tape record or videotape meetings of the Board, committee or Members; provided, however, that the equipment utilized does not produce distracting sound or light emissions and subject to any rules which may be adopted by the Board regarding placement, assemblage of audio and video equipment, prior notice to record the meeting, and distraction resulting from moving about during recording of the meeting.

4.6 **Special Meetings.** Special meetings of the directors may be called by the President or, in his absence, by the Vice President, and must be called by the President or Secretary at the written request of three (3) of the directors. Notice of the meeting shall be given personally or by mail, telephone, facsimile, or electronic mail, which notice shall state the time, place and purpose of the meeting, and shall be transmitted not less than forty-eight (48) hours prior to the meeting. Special meetings of the Board shall be open to all Unit Owners, and notice of a special meeting shall be posted conspicuously at each Condominium forty-eight (48) continuous hours in advance for the attention of the Members of the Association except in the event of an emergency. However, written notice of any special meeting at which non-emergency special assessments, or at which amendments to rules regarding Unit use will be proposed, discussed or approved, shall be mailed, hand delivered or electronically transmitted to the Unit Owners and posted conspicuously on the Condominium property not less than fourteen (14) days prior to the meeting. Evidence of compliance with this fourteen (14) day notice requirement shall be made by an affidavit executed by the person providing the notice and filed among the official records of the Association. The Board may adopt a rule to provide that, in lieu of posting notice of a special Board meeting on the Condominium Property, the notice and agenda may be conspicuously posted and repeatedly broadcast on a closed-circuit cable television system serving the Association in the manner required by the Act. Notice of any meeting where 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. The right of a Member to attend special Board meetings includes the right to speak at such meetings with reference to all designated agenda items. The provisions set forth in Section 4.5 hereof with respect to speaking at meetings and recording of meetings shall also apply to special meetings.

4.7 **Waiver of Notice.** Any director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the giving of notice. Attendance by any director at a meeting shall constitute a waiver of notice of such meeting, except when his attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

4.8 **Quorum and Voting.** A quorum at directors' meetings shall consist of a majority of the entire Board. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board, except when approval by a greater number of directors is required by the Declaration, the Articles, the Long term Lease, or these By-Laws, in which event the voting percentage required in such Declaration, the Articles, the Long Term Lease, or these By-Laws shall control. Directors may not vote by proxy or secret ballot at Board meetings, except, if allowed by statute, for

election of officers. A vote or abstention for each director present shall be recorded in the minutes. A director of the Association who is present at a meeting of its board at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless he or she votes against such action or abstains from voting. A director of the association who abstains from voting on any action taken on any corporate matter shall be presumed to have taken no position with regard to the action. Directors may meet by telephone conference and those attending by telephone conference may be counted toward a quorum and may vote by telephone, provided the telephone conference is conducted on a speaker so that the conversation of those Board members attending by telephone may be heard by the Board and any other person attending the meeting.

4.9 **Adjourned Meetings**. If, at any meeting of the Board, there be 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 any business that might have been transacted at the meeting as originally called may be transacted without further notice.

4.10 **Presiding Officer**. The presiding officer of the directors' meetings shall be the President, his or her designee or, in the absence of the President, the Vice-President or his or her designee. In the absence of the President or Vice-President, the directors present shall designate one of their number to preside or designate the attorney of the Association or a representative of the Association's management company to act as chairman.

4.11 **Order of Business**. The order of business at directors' meetings shall, to the extent practical, be:

- A. Calling of roll;
- B. Proof of due notice of meeting;
- C. Reading and disposal of any unapproved minutes;
- D. Reports of officers and committees;
- E. Unfinished business;
- F. New business;
- G. Adjournment.

4.12 **Compensation.** Directors shall not be entitled to compensation for their services. No director, officer or manager required to be licensed under Florida Statutes Section 468.432 shall solicit, offer to accept, or accept any thing or service of a value for which consideration has not been provided for his own benefit or that of his immediate family, from any person providing or proposing to provide goods or services to the Association. Any such individual who knowingly so solicits, offers to accept, or accepts any thing or service of value is subject to a civil penalty pursuant to Florida Statutes Section 718.501(1)(d).

4.13 **Resignation.** Any Board member may resign at any time at a Board or members' meeting or by written resignation, delivered to the Association, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date. The acceptance of a resignation shall not be required to make it effective.

4.14 **Committees.** Any committee formed for the purpose of assisting in the promulgation of a budget or any committee that is delegated the authority to take final action on behalf of the Association shall conduct its meetings in accordance with the procedural requirements applicable to Board of Directors' meetings, set forth in Section 4.6 hereof. All other committee meetings shall be exempt from those requirements.

4.15 **Standing Committees.** The following are the Standing Committees of the Association:

A. **Budget Committee:** To prepare the proposed annual budget to be submitted to the Board of Directors. The budget is to be finalized and submitted to the Board on or before October 31st of each fiscal year.

B. **Insurance Committee:** To review Association insurance policies and to make recommendations to the Board.

C. **Landscaping and Beautification Committee:** To propose landscaping changes for Board approval and upon such approval to purchase, plant and maintain such landscaping.

D. **Laundry Committee:** To collect, count and deposit monies from all washing machines and dryers in the Condominium.

E. **Patio and Party Committee:** To make recommendations to the Board for the upkeep of the patio and plan events on the patio area with Board approval.

4.16 **Recall**. Any member of the Board may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all Unit Owners. A special meeting of the Unit Owners to recall a member or members of the Board may be called by ten percent (10%) of the Unit Owners giving notice of the meeting as required for a meeting of Unit Owners, and the notice shall state the purpose of the meeting. The recall of a director shall be further governed by the applicable provisions of the Act and the Florida Administrative Code, as same may be amended from time to time.

ARTICLE 5

POWERS AND DUTIES

The Board exercise all powers and duties of the Association under Chapters 617 and 718, Florida Statutes, the Declaration of Condominium, Long Term Lease, Articles of Incorporation and By-Laws, except where a vote of the members is specifically required. Such powers and duties of the Board shall include, without limitation (except as limited by the Long Term Lease, if at all, elsewhere herein and to the extent that same is in accordance with Chapter 718, Florida Statutes) the following:

A. Operation, care, upkeep and maintenance of the Common Elements and facilities subject to the provisions of the Long Term Lease, said Long Term Lease being attached to the Declaration of Condominium. The Recreational Area shall remain in the complete care and control and under the supervision of the Lessor under the Long Term Lease.

B. Determination and adoption of the annual budget of Common Expenses required for the operation of the Condominium and the Association.

C. Levying and collection of regular and special Assessments for Common Expenses from Unit Owners required to pay same.

D. Employment and dismissal of the personnel necessary for the maintenance and operation of the Common Elements and facilities subject to the provisions of the Long Term Lease with regard to the Recreational Facilities under the control of the Long Term Lessor, said Long Term Lease being attached to the Declaration of Condominium. The Recreational Area shall remain in the complete care and control and under the supervision of the Lessor under the Long Term Lease.

E. Adoption and amendment of the rules and regulations covering the details of the operation and use of Condominium Property and facilities subject to the provisions of the Long Term Lease with regard to the Recreational Facilities under the control of the Long Term Lessor, said Long Term Lease being attached to the Declaration of Condominium. The Recreational Area shall remain in the complete care and control and under the supervision of the Lessor under the Long Term Lease.

F. Maintaining of bank accounts on behalf of the Association and the designation of the signatories required therefor.

G. Purchasing, leasing or otherwise acquiring of Units in the name of the Association or its designee, subject to the limitations in the Articles of Incorporation..

H. Purchase of Units at foreclosure, accepting a deed in lieu of foreclosure, or purchasing Units at other judicial sales, in the name of the Association or its designee.

I. Selling, mortgaging or otherwise dealing with Units acquired by the Association or its designee.

J. Organization of Corporations to act as designees of the Association in acquiring title to Units or leasing Units by the Association.

K. Obtaining and reviewing insurance for the Condominium Property.

L. Making repairs, additions and improvements to, or alterations of, the Condominium property, and repairs to and restoration of the Condominium Property, in accordance with the provisions of the Declaration.

M. Enforcement of the obligations of the Unit Owners, the allocation of profits and expenses, and the performance of anything and everything else necessary and proper for the sound management of the Condominium.

N. Borrowing money on behalf of the Association when required in connection with the operation, care, upkeep and maintenance of the Common Elements. If any sum borrowed by the Board on behalf of the Association pursuant to authority contained in this subparagraph N is not repaid by the Association, a Unit Owner, who pays to the creditor such proportion thereof as his interest in the Common Elements bears to the interest of all the Unit Owners in the Common Elements, shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor shall have filed or shall have the right to file against the Unit Owner's Unit.

O. Contracting for the management of the Condominium and the delegation to such manager such powers and duties of the Board as the Board may deem appropriate in the circumstances, and contracting for the management or operation of portions of the Condominium Property susceptible to separate management or operation thereof, and the granting of concessions for the purpose of providing services to the Unit Owners. As an exception to the foregoing, there shall be no delegation of powers and duties wherein (1) same are contrary to the Statutes of the State of Florida and are accordingly not susceptible of being delegated; (2) those delegations and duties which may be required by the Declaration and these By-Laws to have approval of the Board or of the Unit Owners; (3) the delegation is a power and duty which by its very nature is a decision or fiduciary responsibility to be made by the Board and is therefore not susceptible of delegation; and (4) same may be contrary to the Declaration or the By-Laws.

P. Screening prospective purchasers, tenants, occupants, and transferees pursuant to the guidelines in the Declaration. The Association may charge a transfer fee in the maximum amount permitted by the Act, as amended from time to time.

ARTICLE 6

OFFICERS

6.1 **Executive Officers.** The executive officers of the Association shall be a President, one or more Vice Presidents, Secretary, and Treasurer, all of whom shall be members of the Board and shall be elected by and serve at the pleasure of the Board. Any two of said offices may be united in one person, except that the President shall not also be the Secretary or an assistant Secretary of the Association.

6.2 **Appointive Officers.** The Board may appoint such other officers from among the members as they may deem necessary, who shall hold office at the pleasure of the Board and have such authority and perform such duties as from time to time may be prescribed by said Board.

6.3 **Election.** The Board, at its first meeting after each annual meeting of general members, shall elect all officers.

6.4 **Term.** The officers of the Association shall hold office until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board may be removed at any time by the affirmative vote of a majority of the whole Board.

6.5 **The President.** The President shall be the chief executive officer of the Association. Subject to the provisions of 4.10 hereinabove, the President shall preside at all meetings of Members and of the Board, shall exercise the executive powers of the Association and have general supervision over its affairs and other officers, and shall perform all of the duties incident to the office and such other duties as may be delegated to the President from time to time by the Board.

6.6 **The Vice President.** The Vice President shall perform all of the duties of the President in the absence of the President, and such other duties as may be required by the Board. If the Board elects more than one Vice President, the order of succession shall be determined by the Board.

6.7 **The Secretary.** The Secretary or assistant Secretary shall issue notices of all Board meetings and all meetings of Members, shall attend and keep the minutes of same, and shall have charge of all of the books of the Association as well as its records and papers, except those kept by the Treasurer. All minutes shall be kept in a businesslike manner and shall be available for inspection by Unit Owners as set forth in the Act.

6.8 **The Treasurer.**

A. The Treasurer shall have custody of the Association's funds and securities, shall keep full and accurate accounts of the Association's receipts and disbursements, and shall deposit all monies and other valuable effects in the name of, and to the credit of, the Association in such depositories as may be designated by the Board. The books shall reflect an account for each Unit in the manner required by the Act.

B. The Treasurer shall disburse the funds of the Association as may be ordered by the Board, making proper vouchers for such disbursements, and shall render an account of all his or her transactions as the Treasurer, and of the financial condition of the Association to the Board whenever it may require it.

C. The Treasurer shall collect all assessments and shall report promptly to the Board the status of collections.

D. The Treasurer shall maintain accounting records according to good accounting practices and shall render to Unit Owners or their authorized representatives, at least annually, a written summary of the Association's fiscal activities.

6.9 **Compensation.** Officers shall not receive compensation for their services.

6.10 **Resignations**. Any officer may resign at any time at a Board or members' meeting or by written resignation, delivered to the Association, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date. The acceptance of a resignation shall not be required to make it effective.

ARTICLE 7

FINANCES AND ASSESSMENTS

7.1 **Depositories**. The funds of the Association shall be deposited in such banks and depositories as may be determined and approved by appropriate resolutions of the Board. Funds shall be withdrawn only upon checks and demands for money signed by such officer(s) or agent(s) as may be designated by the Board.

7.2 **Fiscal Year**. The fiscal year of the Association shall begin on the first day of January of each year; provided, however, that the Board, whenever it deems it advisable, is expressly authorized to change to a different fiscal year in accordance with the applicable provisions of the Internal Revenue Code.

7.3 **Determination of Assessments**.

A. The Board of Directors shall fix and determine the sum or sums necessary and adequate to assess Unit Owners for their share of the Common Expenses set forth in the budget for the Association and the Condominium. Funds for the payment of Common Expenses shall be assessed against Unit Owners as provided in the Declaration of Condominium. Assessments shall be payable not less frequently than quarterly and shall be due on the first day of each quarter or month unless otherwise ordered by the Board. Assessments shall be made against Unit Owners in an amount not less than required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. Special Assessments, if necessary, shall be levied in the manner provided in the Act and shall be payable in the manner determined by the Board. All funds due under these By-Laws and the Declaration are Common Expenses. All funds due under these By-Laws and the Long Term Lease, which is attached to the Declaration of Condominium, are Common Expenses of this Condominium. The portion of the Common Expenses of this Condominium due under the Long Term Lease shall be fixed and determined and levied by the Lessor, under the provisions thereof, and the Board of Directors shall include said Assessment determination in its budget and Assessments, and shall collect and remit same to Lessor.

B. Any meeting at which a proposed annual budget of the Association or an amendment thereto will be considered by the Board (or Unit Owners as provided in subsection C of this Section 7.3) shall be open to all Unit Owners. At least fourteen (14) days prior to such a meeting, the Board shall mail, hand deliver or electronically transmit to each Unit Owner at the address last furnished to the Association by the Unit Owner, a notice of such meeting and a copy of the proposed annual budget. 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.

C. If the Board adopts in any fiscal year an annual budget which requires assessments against Unit Owners which exceed one hundred fifteen percent (115%) 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 twenty-one (21) days after adoption of the annual budget, a written request for a special meeting from at least ten (10%) percent of all voting interests. The special meeting shall be conducted within sixty (60) days after adoption of the annual budget. At least fourteen (14) days prior to such special meeting, the Board shall hand deliver 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.

Any determination of whether assessments exceed one hundred fifteen (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.

D. The proposed annual budgets of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to those expenses listed in Section 718.504(21), Florida Statutes, as amended from time to time. In addition to annual operating expenses and to the extent applicable, the budgets shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but not be limited to, roof replacement, building painting and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the

deferred maintenance expense or replacement cost exceeds the amount set forth in the Condominium Act, as same may be amended from time to time. The amount to be reserved shall be computed by means of such formula as is set forth in the Act or the Florida Administrative Code, as both may be amended from time to time. The Association may adjust replacement reserve assessments annually to take into account any extension of the useful life of a reserve item caused by deferred maintenance. The foregoing reserve account requirements shall not apply to an adopted budget in which the Members of the Association have determined by a majority vote of those present, in person or by proxy, at a duly called meeting of the Association at which a quorum is established, to provide no reserves or less reserves than those described in this subparagraph. The foregoing shall not prevent the Board from creating such other reserves as may be permitted by the Act or the Florida Administrative Code, as both may be amended from time to time.

E. When the Board determines the amount of any Assessment, the Treasurer shall mail or present to each Unit Owner a statement of Assessment specifying the amount of same and to whom and where same should be payable and sent. Upon request, the Treasurer shall give a receipt for each payment received.

7.4 **Application of Payments and Commingling of Funds.** 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.

7.5 **Fidelity Bonds.** The Association shall obtain and maintain fidelity bonding of all persons who control or disburse funds of the Association in the principal sum not less than that required by the Condominium Act, as same may be amended from time to time.

7.6 **Financial Statements.** The Board shall cause to be prepared financial statements either compiled, reviewed or audited, financial statement or a report of cash receipts and expenditures in lieu of financial statements, in accordance with the Condominium Act, as amended from time to time.

ARTICLE 8

OFFICIAL RECORDS

The Association shall maintain official records which shall be subject to inspection as such maintenance and inspections are required by the Act as amended from time to time.

ARTICLE 9

PARLIAMENTARY RULES

Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration, the Articles or these By-Laws.

ARTICLE 10

COMPLIANCE AND DEFAULT

Each Unit Owner and every occupant, lessee, guest, agent, employee or contractor of a Unit Owner and the Association shall be governed by and shall comply with the terms of these By-Laws, the Declaration of Condominium and all exhibits annexed thereto, and the rules and regulations adopted pursuant to those documents, as the same may be amended from time to time. The Association (and Unit Owners, if appropriate) shall be entitled to the following relief in addition to the remedies provided by the Act:

10.1 Negligence. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement, whether to the Common Elements, Recreational Facilities under the Long Term Lease, Limited Common Elements, Association Property, a Unit, the Unit Owner's personal property, or to the personal property of the Association or other Unit Owners or residents or guests, including, but not limited to, repair after casualty made necessary by his or her violation of any portion of the Declaration or by his or her negligence or intentional misconduct or by that of any member of his family or his or her guests, agents, employees or contractors, but only to the extent such expense is not met by the proceeds of insurance actually collected by the Association. Any expense advanced by the Association or the Long Term Lessor to perform such maintenance, repair or replacement, together with interest, costs and attorneys' fees, shall be secured by a Lien for Charges against the Unit by either the Association and/or the Long Term Lessor enforceable in the same manner as an Assessment as provided by the Declaration.

10.2 Compliance. In the event a Unit Owner or occupant fails to comply with such Unit Owner's obligations under any provision of the Declaration, these By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required, the Association shall have the right to proceed in a court of equity to require performance and/or compliance, to sue in a court of law for damages, and levy a special charge against the Unit Owner and the Unit for the sums necessary to do whatever work is required to put the Unit Owner or Unit in compliance. Such charge, together with interest, costs and attorneys' fees, shall be secured by a lien against the Condominium Parcel, enforceable in the same manner as Assessments levied under the Declaration.

10.3 Fines. In addition to all other remedies provided hereunder, in the event a Unit Owner or anyone for whom a Unit Owner is responsible fails to comply with a provision of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required, the Association shall have the right to impose a fine against the Unit Owner and the Unit. The amount of any fine shall be determined by the Board of Directors of the Association, but in any event shall not exceed the maximum amount permitted by the Act.

10.4 Suspension of Use Rights. In addition to all other remedies provided hereunder, the Association shall have the right to suspend the rights of the Unit Owner, his or her tenants, guests, licensees or invitees, to use any portion of the Common Elements or Association Property or other facilities during any period of time during which the Unit Owner is delinquent in the payment of assessments or any other financial obligation to the Association or in the event a Unit Owner or anyone for whom a Unit Owner is responsible fails to comply with a provision of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required.

10.5 Suspension of Voting Rights. In addition to all other remedies provided in these Bylaws and by applicable law, the Association may suspend the voting rights of any Owner who is delinquent more than ninety (90) days in the payment of any monetary obligation to the Association. Any Owner whose voting rights are suspended does not count towards a quorum and the quorum is reduced to exclude such Owner.

10.6 Set Off. Any funds due and payable by the Association to an Owner under this Declaration, the Articles of Incorporation or the By-Laws, or under the Act shall be subject to a right of set-off for any amounts due and owing to the Association by the Owner under this Declaration, the Articles of Incorporation, the By-Laws, or the Act.

10.7 Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Unit Owner or the Association to comply with the requirements of the Act, the Declaration, these By-Laws, the Articles of Incorporation of the Association, or the rules and regulations, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (including appellate attorneys' fees).

10.8 No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Act, the Declaration, these By-Laws, the Articles of Incorporation of the Association, or the rules and regulations, as the same may be amended from time to time, shall not constitute a waiver of their right to do so thereafter.

10.9 Election of Remedies. All rights, remedies and privileges granted to the Association or a Unit Owner 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 neither be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges as may be granted by the Condominium documents.

ARTICLE 11

AMENDMENTS

Except as otherwise provided, these By-Laws may be amended in the following manner:

11.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

11.2 Adoption. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board or by not less than two-thirds (2/3) of the total Voting Interests of the Association. A proposed amendment must be approved by not less than seventy-five percent (75%) of the total Voting Interests of the Association voting in person, by proxy or by any other lawful means, at a meeting at which a quorum is present or by written agreement provided a quorum participates in the vote by written agreement.

No By-law shall be revised or amended by reference to its title or number only. Proposals to amend existing By-Laws shall contain the full text of the By-Laws to be amended; new words shall be inserted in the text underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that

this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of By-Laws. See By-law . . . for present text." Nonmaterial errors or omissions in the By-law process shall not invalidate any otherwise properly promulgated amendment.

11.3 **Execution and Recording.** A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of the Declaration and By-Laws, which certificate shall be executed by the President or Vice-President and attested by the Secretary or Assistant Secretary 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 Palm Beach County.

11.4 **Proviso.** Notwithstanding the foregoing, these By-Laws may only be amended with the written approval of the Lessor under the Long-Term Lease, which shall not be unreasonably withheld.

11.5 **Scrivener's Errors.** The Board of Directors may correct scrivener's errors in these By-Laws without the necessity of a vote of the Unit Owners subject to the approval of the Long Term Lessor.

ARTICLE 12

LIABILITY SURVIVES TERMINATION OF MEMBERSHIP

The termination of membership in the Association shall not relieve or release any former Unit Owner or Member from any liability or obligation incurred under or in any way connected with the Condominium during the period of ownership and membership, or impair any rights or remedies which the Association may have against such former Unit Owner and Member, arising out of, or which is in any way connected with, such ownership and membership.

ARTICLE 13

LIMITATION OF LIABILITY

Notwithstanding the duty of the Association to maintain and repair parts of the property, the Association shall not be liable for injury or damage caused by a latent condition in the property, nor for injury or damage caused by the elements, or other Unit Owners or persons.

ARTICLE 14

LIENS

14.1 **Protection of Property.** All liens against a Unit, other than for permitted mortgages, taxes or special assessments, shall be satisfied or otherwise removed within thirty (30) days of the date the lien attaches. All taxes and special assessments shall be paid before becoming delinquent as provided in the Condominium documents or by law, whichever is sooner.

14.2 **Notice of Lien.** A Unit Owner shall give notice to the Association of every lien upon his Unit, other than for permitted mortgages, taxes and special assessments, within five (5) days after the attaching of the lien.

14.3 **Notice of Suit.** A Unit Owner shall give notice to the Association of every suit or other proceeding which will or may affect title to his Unit or any part of the property, such notice to be given within five (5) days after the Unit Owner receives notice thereof.

14.4 **Effect on Judicial Sale.** Failure to comply with this Article concerning liens will not affect the validity of any judicial sale.

ARTICLE 15

RECREATIONAL AREA AND FACILITIES

The use of the Recreational Area and Facilities under the Long-Term Lease shall at all times be subject to such Rules and Regulations as the Lessor may establish from time to time in its sole discretion. Said Recreational Area and Facilities shall only be used by the Unit Owners and those persons permitted by the Lessor, subject to the Rules and Regulations for said facilities. All children who are under such age as specified by the Lessor must be accompanied by a responsible adult to the swimming pool and lake area, and the Recreational Facilities in general. Any damage to equipment or the premises caused by a Unit Owner, his family, employees, guests, invitees, etc. or tenants, shall be paid for by the Unit owner responsible thereof, and the cost thereof shall be a charge and lien upon the Unit Owner's parcel as a Special Assessment, which sum shall be determined solely by the Lessor and shall be billed to the Unit Owner as Lessor directs.

ARTICLE 16

SEAL

The seal of the Association shall have inscribed thereon the name of the Association, the year of its organization, and the words "non-profit." Said seal may be used by causing it or a facsimile thereof to be impressed, affixed, reproduced or otherwise.

ARTICLE 17

CONFLICT

If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these By-Laws and of any of the Declaration, the provisions of the Declaration shall prevail.

ARTICLE 18

CAPTIONS

The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws or the intent of any provisions hereof.