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DECLARATION OF CONDOMINIUM

WATER GARDENS, A CONDOMINIUM

A Residential Condominium

T.C.K. INVESTMENTS, L.L.C., a Florida limited liability company, hereinafter referred to as "Developer" is the owner of a parcel of land in Charlotte County, Florida, more particularly described in Article (IV) of this Declaration of Condominium. Developer contemplates developing this land as a Condominium. The Condominium will consist of eighteen (18) residential Units. NO TIME-SHARE ESTATES WILL BE CREATED WITH RESPECT TO UNITS IN THIS CONDOMINIUM.

I.

SUBMISSION STATEMENT

Developer hereby states and declares that it is the owner and holder of the fee simple title in and to the real property in Charlotte County, Florida, described in Article (IV) hereof entitled "Land." Developer will develop the Land pursuant to the provisions of Chapter 718, Florida Statutes (the "Condominium Act"). The Condominium Property will consist of one building containing eighteen (18) residential Units. Developer hereby declares the real property described in Article (IV) to be Condominium Property, and does hereby submit the same to condominium ownership pursuant to the Condominium Act upon the terms, conditions, restrictions, reservations and limitations hereinafter set forth. Except where variances permitted by law appear in this Declaration or in the attached Bylaws or in lawful amendments to either of them, the provisions of the Condominium Act as presently constituted, including the definitions therein contained, are adopted and included herein by express reference.

All restrictions, reservations, covenants, conditions and easements herein shall create covenants running with the land which shall be binding on the Developer, its successors and assigns, forever.

II.

DEFINITIONS

(1) Articles of Incorporation or Articles means the document creating the not-for-profit Florida Corporation responsible for the operation of the Condominium.

(2) 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.

(3) Association means **WATER GARDENS ASSOCIATION, INC.**, a not-for-profit Florida corporation, and its successors, being the corporate entity responsible for the operation of the Condominium.

(4) Association Property means that property, real and personal, which is owned or leased by, or is dedicated by a recorded plat to, the Association for the use and benefit of its Members.

(5) Board of Directors or Board means the representative body which is responsible for administration of the Association.

(6) Bylaws means the Bylaws of the Association as they exist from time to time.

(7) Common Elements means the portions of the Condominium Property which are not included in the Units.

(8) Common Expenses means all expenses which are properly incurred by the Association for the Condominium.

(9) Common Surplus means the excess of all receipts of the Association collected on behalf of the Condominium (including, but not limited to, Assessments, rents, profits, and revenues on account of the Common Elements) over the Common Expenses.

(10) Condominium means **WATER GARDENS, A CONDOMINIUM** which is created pursuant to the provisions of the Condominium Act, which is comprised of Units that may be owned by one or more persons, and in which there is, appurtenant to each Unit, an undivided share in Common Elements.

(11) Condominium Act means Florida Statutes Chapter 718.

(12) Condominium Parcel means a Unit, together with the undivided share in the Common Elements which is appurtenant to the Unit.

(13) Condominium Plat means the survey, plot plan and graphic description of the Condominium.

(14) Condominium Property means the lands, leaseholds, and personal property that are subjected to Condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the Condominium.

(15) Conspicuous Type means **bold** type in capital letters no smaller than the largest type, exclusive of headings, on the page on which it appears and, in all cases, at least 10-

point type. Where conspicuous type is required, it must be separated on all sides from other type and print.

(16) County shall mean Charlotte County, Florida.

(17) Declaration or Declaration of Condominium means the instrument or instruments by which the Condominium is created, as they are from time to time amended.

(18) Developer means **T.C.K. INVESTMENTS, L.L.C.**, a Florida limited liability company, which has created the Condominium and offer Condominium Parcels for sale or lease in the ordinary course of business.

(19) Director means a member of the Board of Directors of the Association.

(20) Institutional Mortgagee means the Owner and holder of a mortgage encumbering a Condominium Parcel, which Owner and holder shall be either a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust, federal or state agencies, mortgage banker, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Developer or other mortgagee which shall be acceptable to and approved by the Board of Directors of the Association.

(21) Limited Common Elements means those Common Elements which are reserved for the use of a certain Condominium Unit or Units to the exclusion of other Units, as specified in this Declaration of Condominium.

(22) Member means all record Owners of a present vested interest in a Condominium Unit who automatically become members of the Association.

(23) Officers means the Directors who are elected as President, Vice President, and Secretary-Treasurer by the Board of Directors to manage the affairs of the Association.

(24) Operation or Operation of the Condominium includes the administration and management of the Condominium Property.

(25) Residential condominium means a condominium consisting of condominium Units which are intended for use as a private temporary or permanent residence.

(26) Special Assessment means any Assessment levied against Unit Owners other than the Assessment required by the annual budget.

(27) Surface Water Management Systems Facilities means and includes but is not limited to all inlets, ditches, swales, culverts, water control structures, retention and detention areas and, if applicable, any ponds, lakes, flood plane compensation areas, wetlands and any associated buffer areas and wet land mitigation areas.

(28) Time-share estate means any interest in a Unit under which the exclusive

right of use, possession, or occupancy of the Unit circulates among the various purchasers of a time-share plan pursuant to Florida Statutes Chapter 721 on a recurring basis for a period of time.

(29) Unit or Condominium Unit means a part of the Condominium Property which is subject to exclusive ownership. A Unit may consist of improvements, land, or land and improvements together, as specified in the Declaration.

(30) Unit Owner or Owner of a Unit means a record Owner of legal title to a Condominium Parcel.

(31) Vote is the ballot cast by the Voting Interest.

(32) Voting Certificate means a document which designates one of the record title Owners, or the corporate, partnership, or entity representative, who is authorized to vote on behalf of a Unit that is owned by more than one Owner or by any entity.

(33) Voting Interest means the person exercising the voting rights distributed to the Association members pursuant to Florida Statutes Section 718.104(4)(j).

III. NAME

The name by which this Condominium is to be known and identified is:

WATER GARDENS, A CONDOMINIUM

IV. LAND

The legal description of the real property submitted herewith to Condominium Ownership is as follows:

LOT 1 AND LOT 2, BLOCK 180, PUNTA GORDA ISLES, SECTION 14, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 8, PAGES 9A THROUGH 9Q INCLUSIVE OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA

SUBJECT to restrictions, reservations, conditions, limitations and easements of record and applicable zoning ordinances and laws and regulations; without reimposing any of the same, and also the provisions of this Declaration.

V. IDENTIFICATION OF UNITS AND FACILITIES

A. Condominium Property. The Condominium Property consists of the land described in Article (IV), all easements and rights appurtenant thereto, together with the building and other improvements constructed thereon, which includes the Units and Common Elements. In addition,

the Condominium Property shall include as a Common Element, an interest in real or personal property acquired by the Condominium Association in accordance with the provisions of the Condominium Act. Each Unit, is part of the Condominium is subject to private ownership. The Developer will not provide personal property.

The principal improvements on the land described in Article (IV) consist of one three-story building over covered parking area containing eighteen (18) residential Units. Each floor above covered parking shall contain two three-bedroom, two-bath Units with approximately 1867 square feet of air-conditioned living space and four two-bedroom, one den, two-bath Units containing approximately 1818 square feet of air-conditioned living space. Each Unit shall have an attached lanai.

The Units shall be identified as follows:

First floor above covered parking: Units 121, 122, 123, 124, 125, and 126
Second floor above covered parking: Units 131, 132, 133, 134, 135, and 136
Third floor above covered parking: Units 141, 142, 143, 144, 145, and 146.

The recreational amenities shall include an in-ground concrete swimming pool approximately 34 feet long by 18 feet wide with an approximate depth from 3 feet to 6 feet and covered gazebo.

B. Unit Boundaries. Each Unit shall include that part of the building containing the Unit, the boundaries of which are as follows:

1. Upper and Lower Boundaries. The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the perimetrical boundaries.

(a) Upper Boundary: The horizontal or sloped plane formed by the unfinished interior surface of the ceiling.

(b) Lower Boundary: The horizontal plane formed by the upper side of the interior unfinished floor surface.

2. Perimetrical Boundaries: The perimetrical boundaries of the Unit shall be the following boundaries extended to an intersection with the upper and lower boundaries.

(a) Exterior Building Walls: The intersecting vertical planes adjacent to and which include the interior unfinished surface of the outside walls of the building.

(b) Interior Building Walls: The interior boundaries of the Unit shall be the unfinished surface of each interior load-bearing wall as shown on Exhibit "C".

3. Apertures. Where there are apertures in any boundary, including, but not limited to, windows and doors, such boundaries shall be extended to include the interior unfinished surfaces of such apertures, including all framework thereof. Exterior surfaces made of glass or

other transparent material, including screening, and all framings and casings therefore, shall be included in the boundaries of the Unit.

4. Exceptions. In cases not specifically covered above, and/or in any case of conflict or ambiguity, the survey in Exhibit "C" shall control in determining the boundaries of a Unit.

C. Condominium Parcel. Each Unit Owner shall have, as an appurtenance to his Unit, an undivided one-eighteenth (1/18) interest in the Common Elements. The Common Elements and Limited Common Elements include the land and all other parts of the Condominium not in the Unit as more particularly described in Exhibit "C." Each Condominium Parcel also includes membership in the Condominium Association, with the full voting rights appertaining thereto as described in Article (VIII.(D)) of this Declaration. Upon completion and recording in the Public Records of Charlotte County of the Declaration and the Condominium Plat, the Unit Owners shall automatically acquire the aforesaid share in the Common Elements and Limited Common Elements in the Condominium Parcel.

D. Common Elements. The following are Common Elements:

1. Landscaping. All lawns, landscaping, and sprinkler systems will be Common Elements.

2. Boat Dock. The boat dock will be Common Elements. The boat dock is not subject to a submerged land lease.

3. Stairways; Landings; Entry Porches; Trash Area; Elevator. The stairways, landings, trash area, elevator and entry porches shall be Common Elements.

4. Sea Wall. The sea wall is a Common Element.

5. The Surface Water Management Facilities. The Surface Water Management Facilities shall be Common Elements.

6. Swimming Pool and Gazebo. The swimming pool and gazebo are Common Elements.

7. Unnumbered Parking Spaces. Unassigned parking spaces will be Common Elements.

8. Pump Room. The pump room will be a Common Element.

E. Limited Common Elements. The following are Limited Common Elements appurtenant to the Unit or Units served:

1. HVAC. Air-conditioning and heating equipment located outside the boundaries of a Unit shall be Limited Common Elements to the Unit which they serve.

2. Screened Lanais. Each Unit contains a screened lanai which lanai shall be a Limited Common Element to the Unit that it is attached to.

3. Assigned Parking Spaces. There are 30 numbered covered parking spaces and 6 numbered uncovered parking spaces. The parking spaces are designated as numbers P-1 through P-36 on Exhibit "C". The Developer shall at the time a Unit is initially conveyed assign a parking space or spaces as a Limited Common Element or Elements to the Unit conveyed by designating the same by number in the initial deed of conveyance. Thereafter, a Unit Owner may transfer such Limited Common Element or Elements separately and apart from the Unit to which they are appurtenant provided that such transfer must be to another Unit Owner. The transfer shall be effective upon the execution by the Unit Owner and the recording of an instrument of transfer in the public records of Charlotte County, Florida, which references this Declaration by Official Record Book and Page and which describes the parking space transferred by number, the name of the transferee, and the Unit to which the parking space is to be transferred upon which such parking space shall become a Limited Common Element or Elements to the Unit to which it is transferred.

4. Covered Storage Spaces. There are eighteen (18) Covered Storage Spaces. The Covered Storage Spaces are designated as numbers S-1, S-2, S-3, S-4, S-5, S-6, S-7, S-8, S-9, S-10, S-11, S-12, S-13, S-14, S-15, S-16, S-17 and S-18 on Exhibit "C". The Developer shall, at the time the Unit is initially conveyed, assign a Storage Space as a Limited Common Element to the Unit conveyed by designated the same by number in the initial deed of conveyance. Thereafter, a Unit Owner may transfer such limited Common Element separately and apart from the Unit to which it is appurtenant provided that such transfer must be to another Unit Owner. The transfer shall be effective upon the execution by the Unit Owner and the recording of an instrument of transfer in the Public Records of Charlotte County, Florida which references this Declaration by Official Record Book and Page in which describes the Storage Space transferred by number, the name of the transferee and the Unit to which the Storage Space is to be transferred upon which such Storage Space shall become a Limited Common Element to the Unit to which it is transferred.

F. Boat Slips. The Developer intends to construct one boat dock. **The Developer does not, however, guarantee construction of the boat dock. The boat dock will not be subject to a submerged Land Lease.** The boat dock, if constructed shall serve four (4) Boat Slips. The Boat Slips are designated as numbers D-1, D-2, D-3 and D-4, on Exhibit "C". The Developer may, at the time a Unit is initially conveyed, assign a Boat Slip to be used exclusively by the Owner of the Unit conveyed either by designating the same by number on the initial deed of conveyance or by separate assignment. Thereafter, a Unit Owner may transfer the right to use such Boat Slip separately and apart from the Unit to which it was originally assigned, provided that such transfer must be to another Unit Owner. The transfer shall be effective upon the execution by the Unit Owner and the recording of an instrument of transfer in the public records of Charlotte County, Florida, which references this Declaration by Official Record Book and Page and which describes the Boat Slip transferred by number, the name of the transferee, and the Unit to which the Boat Slip is to be transferred. After transfer, the Boat Slip shall be restricted to the use by the Owner of the Unit to which it is transferred. A Unit Owner may, at his or her own expense, construct a boat lift on the boat dock adjacent to Boat Slips D-2 and D-3 only; provided that the plans and specifications for such lift shall be approved in writing in advance by the Board. The Board may adopt reasonable rules and regulations for the installation of boatlifts, which may include, without limitation,

uniformity of construction, aesthetics, approval of contractor, insurance requirements and separate metering of electricity.

In the event a boat dock is damaged as a result of the negligent or intentional act of any Boat Slip assignee or his or her family, guests, invitees, or contractors, the cost of repairing the same shall be paid by the assignee of the Boat Slip responsible for the damage.

G. Surface Water Management. The Condominium Association will maintain the surface water management system facilities in the Condominium Property. Any personal property improvements to the surface water management system facilities shall be owned by the Association. The Association shall include in its annual budget an Assessment for the anticipated costs of maintaining the surface water management system facilities. No construction activities may be conducted relative to any portion of the surface water management system facilities. Prohibited activities include, but are not limited to: digging or excavation; depositing fill; debris or other material or item; constructing or altering any water control structure, or any other construction to modify the surface water management system facilities. Operation maintenance and re-inspection reporting shall be performed in accordance with the terms and conditions of the environmental resource permit. Any amendment to this Declaration affecting the surface water management system facilities or the operation and maintenance of the surface water management system facilities shall have the prior written approval of the south Florida Water Management District, which has the right to take enforcement measures, including civil action for injunction and/or penalties against the Association to compel it to correct any outstanding problems with the surface water management system facilities.

If the association ceases to exist, all unit owners shall be jointly and severally responsible for operation and maintenance of the surface water management system facilities in accordance with the requirements of the ERP, unless and until an alternate entity assumes responsibility.

In the event any on-site wet land mitigation is necessary which requires ongoing monitoring and maintenance requiring the association to allocate sufficient funds in its budget for monitoring and maintenance of the wetland mitigation area(s) each year until the District determines that the area(s) is successful in accordance with the ERP.

VI.

SURVEY, PLOT PLAN AND GRAPHIC DESCRIPTION OF IMPROVEMENTS

A. Recording of Survey, Plot Plan and Graphic Description. There is recorded simultaneously herewith the Condominium Plat showing the Units, Limited Common Elements and Common Elements, their location and approximate dimensions in sufficient detail to identify them. Construction of the Condominium may not be substantially complete when this Declaration is recorded in the Public Records of Charlotte County, Florida, therefore, upon substantial completion of construction the Declaration shall be amended to include a certificate of a surveyor authorized to practice in the State of Florida stating that construction is substantially complete so that the material, together with the provisions of this Declaration describing the Condominium Property, is an accurate representation of the location and dimensions of the improvements and that the

identification, location and dimensions of the Common Elements and Limited Common Elements of each Unit can be determined from such materials. A copy of the Condominium Plat is attached hereto and marked Exhibit "C"

B. Amendment of Common Element Boundaries. Except as provided herein, the boundaries of the Common Elements shall not be altered without amendment of the Declaration by approval of Unit Owners and Owners of mortgages in the manner elsewhere provided.

C. Easements. Easements are reserved throughout the Condominium Property as more particularly described in Article (XXIV) of this Declaration of Condominium.

VII.

UNDIVIDED SHARES IN THE COMMON ELEMENTS AND SHARE IN THE COMMON EXPENSES AND COMMON SURPLUS APPURTENANT TO EACH UNIT

A. Share in Common Elements. All Units shall have as an appurtenance thereto an undivided one-eighteenth (1/18) share in the Common Elements.

B. Share of Common Expenses and Common Surplus. All Unit Owners shall be liable for a one-eighteenth (1/18) share of the Common Expenses and each Unit Owner shall be entitled to receive the same proportionate share of the Common Surplus.

VIII.

MANAGEMENT OF THE CONDOMINIUM

A. Powers of the Association. The Association shall have all the powers, rights and duties set forth in the Condominium Act, the Articles, this Declaration, the Bylaws and the rules and regulations enacted pursuant to the Bylaws. Copies of the Articles and Bylaws are attached hereto and made a part hereof as Exhibits "A" (Articles) and "B" (Bylaws).

B. Membership in Condominium Association. Each Unit Owner whether he or she has acquired title by purchase from the Developer, the Developer's grantee, successors, or assigns, or by gift, conveyance or by operation of law, is bound to and hereby agrees that he or she shall accept membership in the Condominium Association and does hereby agree to be bound by this Declaration, the Bylaws and the rules and regulations enacted pursuant to the Bylaws, the Condominium Act and lawful amendments thereto. Membership is automatic.

C. Ownership Subject to Matters of Record. Each Unit Owner shall accept ownership of his or her Condominium Parcel subject to restrictions, easements, reservations, conditions and limitations now of record and affecting the Condominium Property.

D. Voting Rights. All Unit Owners shall collectively be entitled to one (1) Vote per each Unit. If a Unit is owned by more than one (1) person, then the person entitled to cast such Vote shall be determined by filing a Voting Certificate, signed under oath by all Unit Owners with a present vested interest in the Unit, with the Secretary of the Association. Said Voting Certificate shall state:

1. Ownership Interest. The respective percentage interest (as recorded in the Public Records of Charlotte County, Florida) of each of the Unit Owners.

2. Voting Interest. The Unit Owners shall determine which one of the Unit Owners will represent all of the Unit Owners at Membership meetings and cast the Vote to which they are collectively entitled. The person so designated shall be known as the Voting Interest and shall be the only one of the Unit Owners eligible to cast the Vote for said Unit at Membership meetings. The Voting Interest may continue to cast the Vote for all of the Owners of the Unit until such time as another person is designated as the Voting Interest for the Unit. Voting by proxy may be permitted in accordance with Florida Statutes, the Articles and the Bylaws now in existence or hereafter amended.

E. Unit Owned by One Owner. When a Unit is owned by one person, then he or she shall have the Vote for that Unit. No Voting Certificate shall be required.

F. Unit Owned by Corporation and Limited Liability Company. When a Unit is owned by a corporation or a limited liability company, the corporation president or vice president or all of the managers of the limited liability company shall execute the Voting Certificate designating which corporate officer shall be the Voting Interest. In the absence of a Voting Certificate, the President shall be deemed the Voting Interest.

G. Unit Owned by General or Limited Partnership. When a Unit is owned by a general partnership, the Voting Interest shall be determined by filing a Voting Certificate signed by all of the general partners; and when a Unit is owned by a limited partnership, the Voting Interest shall be determined by filing a Voting Certificate signed by all of the general partners.

H. Unit Owned by a Trust. When a Unit is owned by a trust, the Voting Interest shall be determined by filing a Voting Certificate signed by all of the trustees of the trust.

I. Number of Votes. The number of Votes shall not exceed the number of Units so that there shall be eighteen (18) votes. An individual with an interest in more than one (1) Unit may be designated as having the Voting Interest for each such Unit.

J. Board. All the affairs, policies, regulations and property of the Association shall be controlled and governed by the Board of Directors consisting of the number of Directors to be determined by the Bylaws, but not less than three (3) Directors, who are all to be elected annually by the Voting Interests.

K. Duties of Condominium Association. It shall be the duty of the Association to provide, through its agents and employees, for the administration, operation, maintenance, repair and replacement of the Common Elements, and to make reasonable uniform rules and regulations from time to time, as well as to perform all other duties expressly or impliedly set forth herein.

L. Limitation upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage, other than the cost of maintenance and repair, caused by

any latent condition of the Condominium Property to be maintained and repaired by the Association, or caused by the elements, third parties or Unit Owners.

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

N. Association's Right to Purchase Land, Recreation Lease and Units. The Association has the power to purchase any land or recreation lease upon approval of not less than a majority of the Votes of the Voting Interests. The Association has the power to purchase Units in the Condominium and to acquire and hold, lease, mortgage, and convey them upon approval of not less than a majority of the Votes of the Voting Interests; provided, however, that the Board of Directors may elect to purchase a Unit at a foreclosure sale resulting from the Association's foreclosure of its lien for unpaid Assessments, or to take title by deed in lieu of foreclosure, without Membership approval.

IX. AMENDMENT TO CONDOMINIUM DECLARATION

A. Procedure for Amendment. Except as otherwise provided, this Declaration may be amended in the following manner:

1. Notice. Notice in writing of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered. The format of the notice shall conform to Florida Statutes Section 718.110.

2. Proposals to Amend. A resolution for the adoption of a proposed amendment may be proposed by at least two-thirds (2/3) of the Board of Directors at any regular or special meeting of the Board of Directors, or by not less than one-fourth (1/4) of the Votes of the Voting Interests.

3. Adoption. The proposed Amendment shall be adopted upon approval of not less than three-fourths (3/4) of the Votes of the Voting Interests.

4. Amendments by Developer. As long as the Developer is entitled to elect not less than a majority of the Board of Directors, and subject to the proviso in Paragraph B of this Article, an amendment to this Declaration may be approved by a two-thirds (2/3) vote of the Board of Directors. Such amendment must be in writing in the format required by the Condominium Act and recorded. The amendment need not be accompanied by a certificate of the Association.

B. Proviso. No amendment shall discriminate against any Unit Owners or against any Unit or class or group of Units, unless the Unit Owners so affected shall consent. No amendment shall change the configuration or size of any Unit in any material fashion or modify the appurtenances to a Unit nor the share in the Common Elements appurtenant to it, nor increase the Unit Owner's share of the Common Expenses or common surplus, nor permit a timeshare estate to be created unless the Unit Owner of the Unit concerned, all record owners of mortgages on all Units

in the Condominium and all other Unit Owners shall join in the execution of the amendment. Neither shall an amendment make any changes in Article (XIX.(D)) unless the record owners of all mortgages upon the Condominium shall join in the execution of the amendment.

C. Method of Amendment. No provision of the Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of the Declaration shall contain the full text of the provision 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 and 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." Nonmaterial errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

D. Correcting Errors or Omissions. If there is an omission or error in the Declaration, or in other documents required by law to establish the Condominium, the Association may correct the error or omission by an amendment to the Declaration, or the other documents required to create the Condominium, by a majority of the Votes of the Voting Interests. The amendment is effective when passed and approved and a certificate of the amendment is executed and recorded as provided in Florida Statutes Section 718.110. This procedure for amendment cannot be used if such an amendment would materially or adversely affect property rights of any Unit Owner, unless the affected Unit Owner consents in writing. This subparagraph does not restrict the powers of the Association to otherwise amend the Declaration, Articles, Bylaws or rules and regulations enacted pursuant to the Bylaws, but authorizes a simple process of amendment requiring a lesser vote for the purpose of curing defects, errors, or omissions when the property rights of Unit Owners are not materially or adversely affected.

E. Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the Officers with the formalities of a deed. Amendments shall become effective when recorded in the Public Records of Charlotte County, Florida.

F. Directors and Members Voting Rights. Directors shall be permitted to vote only if present at the meeting at which an amendment is considered, and Voting Interests may cast their Vote either in person or by limited proxy at any meeting of the Members at which an amendment is considered.

G. Bylaws. The Operation of the Condominium shall be governed by the Bylaws. The Bylaws may be amended in the manner set forth therein.

X. PURPOSE AND USE RESTRICTIONS

In order to provide for a congenial occupation of the Condominium and to provide for the protection of the value of the Units, the use of the Condominium Property shall be restricted to and

be in accordance with the following provisions:

A. Use of Units. Each of the Units shall be occupied only as a single-family residential dwelling. No Unit may be divided or subdivided into a smaller Unit. No Unit shall be permanently occupied by more than two (2) persons for each bedroom in the Unit. In addition, temporary occupants are permitted so long as they do not create an unreasonable source of noise or annoyance to the other occupants of the Condominium, and provided that total Unit occupancy does not exceed two (2) persons for each bedroom plus two (2) additional persons including infants. Temporary occupancy is defined as not more than thirty (30) consecutive days nor more than ninety (90) days in a single calendar year. Nothing herein shall be construed to prevent a Unit Owner from placing more restrictive occupancy requirements as a condition for a lease of a Unit.

B. Children. Children shall be permitted as permanent occupants of a Unit in the Condominium.

C. Pets. No animals, livestock or poultry of any kind shall be permitted within the Condominium Property except for common household domestic pets, not to exceed one such pet per Unit and which does not weigh in excess of 35 pounds. When outside a Unit, dogs shall be restrained either on a leash or otherwise. The Board of Directors may cause the removal of any pet from the Condominium Property which constitutes a nuisance, in the sole opinion of the Board of Directors. A Unit Owner shall be responsible for cleaning up after any pet owned or kept by such Unit Owner. Tenants shall not be allowed any pets in a Unit.

D. Common Elements and Limited Common Elements. The Common Elements and Limited Common Elements shall be used for the furnishing of services and facilities for which they are reasonably intended, for the enjoyment of the Unit Owners, and subject to such rules and regulations as may, in the opinion of the Association, achieve the maximum beneficial use thereof.

E. Alterations. No Unit Owner shall make, allow or cause to be made, any structural addition or alteration of his Unit or the Common Elements or Limited Common Elements without the prior written consent of the Association, except as otherwise specifically provided for in this Declaration.

F. Nuisances. No nuisances shall be allowed upon the Condominium Property or within a Unit, nor any use or practice that is the source of annoyance to occupants or which interferes with the peaceful possession and proper use of the Condominium Property by occupants. All parts of the Condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate nor any fire hazard allowed to exist. No Unit Owner shall permit any use of his Unit or make any use of the Common Elements that will increase the cost of insurance upon the Condominium Property without the prior written approval of the Board of Directors .

G. Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Condominium Property nor any part of it; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed.

H. Safety. A Unit Owner shall not do anything within his Unit or on the Common Elements which would adversely affect the safety or soundness of the Common Elements or any portion of the Association Property or Condominium Property which is to be maintained by the Association. No flammable products shall be stored in any Unit or upon the Common Elements or Limited Common Elements.

I. Leasing of Units. Entire Units may be leased, provided that no lease shall be for a period of less than three (3) months, subject to the approval of the Association as provided in Article (XI), provided the occupancy is only by the tenant and his or her family, if any, as subletting shall not be allowed. A lease of any Unit shall not release or discharge the Unit Owner thereof from compliance with any of his obligations and duties as a Unit Owner, and the Unit Owner shall be liable jointly and severally with his tenant for any violation of the Declaration, Articles, Bylaws and rules and regulations. All of the provisions of this Declaration, the Articles and Bylaws pertaining to use and occupancy shall be applicable and enforceable against any person occupying a Unit as a tenant to the same extent as against a Unit Owner, and a covenant upon the part of each such tenant to abide by the terms and provisions of this Declaration, the Articles and Bylaws, and designating the Association as the Unit Owner's agent for the purpose of and with the authority to terminate any such lease agreement in the event of violations by the tenant of any such covenant shall be an essential element of any lease or tenancy agreement, whether oral or written, and whether specifically expressed in such agreement or not. When a Unit is leased, the tenant shall have all use rights in the Association property and the common elements otherwise available for use by the Unit Owners and the Unit Owner shall not have such rights except as a guest unless such rights are waived in writing by the tenant.

J. Guests. A Unit Owner must notify the Association in advance of the expected period of use of any house guest of such Unit Owner when occupying the Unit whether the Owner is in residence or in the Owner's absence. The Owner of the Unit shall remain liable for the conduct of his or her guest while using the Condominium facilities. The Association or its authorized agent shall have the right to refuse the entrance of a house guest when the Association has not received advance notice.

K. Rules and Regulations. Reasonable rules and regulations concerning the use of the Common Elements and Limited Common Elements may be made and amended from time to time by the Board of Directors; copies of such rules and regulations and amendments thereto shall be furnished by the Association to all Unit Owners and tenants. Any rule or regulation so adopted may be rescinded, amended or altered pursuant to the Bylaws.

L. Exterior Appearance/Displays. No Unit Owner shall decorate or alter any part of his Unit so as to affect the exterior appearance of the Unit without the prior written approval of the Board of Directors. No outside signal receiving or sending antennas, dishes or devices are permitted. The foregoing shall not prohibit any antenna or signal receiving dish owned by the Association which services the entire Condominium Property. Nothing shall be hung, displayed or placed on the exterior walls, doors or windows of the Unit visible from the exterior without the prior written consent of the Board of Directors; provided that any Unit Owner may display one portable, removable United States flag in a respectful way and, on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veteran's Day, may display in a respectful way portable,

removable official flags, not larger than 4 ½ feet by 6 feet, that represent the United States Army, Navy, Air Force, Marine Corp, or Coast Guard, regardless of any declaration, rules, or requirements dealing with flags or declarations.

M. Outside Storage of Personal Property. The personal property of any Unit Owner shall be kept inside the Unit, and no personal property may be stored on the exterior of any Unit or on the Common Elements or Limited Common Elements.

N. Vehicles/Boats. Only automobiles, vans, small pick-up trucks, and other vehicles manufactured and used as private passenger vehicles are permitted on the Condominium Property. Notwithstanding the foregoing, automobiles owned by governmental law enforcement agencies are expressly permitted. The foregoing restrictions shall not be deemed to prohibit the temporary parking of commercial vehicles while making deliveries to or from, or while used in connection with providing services to the Condominium Property. All vehicles parked within the Condominium Property must be in good condition, and no vehicle which is unlicensed or which cannot operate on its own power shall remain within the Condominium Property for more than 24 hours, and no repairs or servicing of any vehicle shall be made on the Condominium Property. Motorcycles are not permitted except with the prior written consent of the Association, which may be withdrawn at any time, and any permitted motorcycle must be equipped with appropriate noise muffling equipment so that the operation of same does not create an unreasonable annoyance to the occupants of the Condominium Property. Boats may be kept only in the Boat Slips or completely within a garage).

O. Air Conditioning Units. Only central air conditioning Units are permitted, and no window, wall or portable air conditioning Units are permitted.

P. Garbage and Trash. Garbage, trash, refuse or rubbish that is required to be placed in the front of any Condominium in order to be collected may be placed and kept at the front of the Unit on the day of the scheduled day of collection, and any trash facilities must be removed on the collection day. All garbage, trash, refuse or rubbish must be placed in trash facilities provided by the Association. All trash facilities shall be stored inside a Unit and kept in a clean and sanitary condition. No noxious or offensive odors shall be permitted.

Q. Wells. Wells are prohibited upon the Condominium Property for irrigation, domestic water use or any other purpose unless authorized by the Condominium Association.

R. Declaration of Restrictions. The Condominium Property is subject to the Declaration of Restrictions recorded by the original Developer of Punta Gorda Isles in Official Record Book 316 at Page 554 of the Public Records of Charlotte County, Florida.

XI. SALES, LEASES AND OTHER TRANSFERS

In order to assure a community of congenial residents and thus protect the value of the Units, the sale or lease of Units shall be subject to the following provisions which shall be covenants running with the land so long as the Condominium Property shall be subject to the Condominium

form of ownership under the laws of the State of Florida.

A. Sales, Lease or Transfer. Prior to the sale, lease or transfer of any interest in a Unit to any person other than the transferor's spouse, the Owners shall notify the Board of Directors of the corporation in writing the name and address of the person to whom the proposed sale or transfer is to be made, and such other information as may be required by the Board of Directors of the Association. If the transferee is not a natural person, the notice shall include the names and addresses of the persons who will occupy the Unit. The transferee shall provide the Association with a copy of the recorded deed after the transfer.

The Association may require that a prospective Lessee place a security deposit, in an amount not to exceed the equivalent of one month's rent, into a non-interest bearing escrow account maintained by the Association. The security deposit shall protect against damage to the common elements or Association property. Claims against the deposit, refunds and disputes shall be handled as provided in Part II of Chapter 83 of the Florida Statutes.

B. Assessment Status. Within fifteen (15) days after request by a Unit Owner or Unit mortgagee, the Association shall provide a certificate stating all assessments and other monies owed to the Association by the Unit Owner with respect to the condominium parcel. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby.

C. Heirs and Devises of Deceased Unit Owners.

(i) Title to Spouse, Family Members and Unit Owners. If the Owner of a condominium Unit should die and as a result of such death the title to the condominium Unit of such deceased Owner shall pass to any person other than a co-owner of the Unit, such person shall within sixty (60) days of such person or persons taking title, occupancy or possession of the parcel advise the Association regarding his intention of residing in the Unit and of his or their current address. He shall also furnish the Association such other information as the Association may reasonably request.

(ii) Amounts Due Association. Nothing in this Article shall be deemed to reduce, forgive, or abate any amounts due the Association from the Unit Owner at the time of his death, nor the assessments attributable to the Unit becoming due after the Unit Owner's death, all of which shall be fully due and payable as if the Unit Owner had not died.

XII. ASSESSMENTS

A. Power of Association. The Association, through its Board of Directors, shall have the power to make and collect such Assessments and Special Assessments as allowed by the Condominium Act, this Declaration or the Bylaws.

B. Board Adopts Budget. The Board of Directors shall adopt the annual budget at least forty-five (45) days before the end of each fiscal year. The budget shall project anticipated income and estimated expenses. Common Expenses shall include but shall not be limited to, costs and

expenses of operation, maintenance and management; insurance premiums for fire, windstorm, and flood, as required by the Condominium Act; premiums for public liability insurance; legal and accounting fees; management fees; operating expenses of the Association; maintenance, repairs and replacement of the Common Elements, except for emergency repairs or replacements deemed necessary to protect the Common Elements and properly chargeable to a Unit; security provisions; charges for utility used for Common Elements; water and sewer for the Condominium Property; cleaning and janitorial service for the Common Elements; expenses and liabilities incurred by the Association in the enforcement of its rights and duties against the Members or others; the creation of reasonable contingency or reserve requirements for the protection of the Members, and the Condominium Property (e.g., reserves for replacements, capital expenditures, deferred maintenance, operating reserve to cover deficiencies in collections); and all other expenses designated as Common Expenses by the Condominium Act, this Declaration, the Articles or Bylaws. In addition, if the Association maintains Limited Common Elements with the cost to be shared only by those entitled to use the Limited Common Elements, the budget or a schedule attached to the budget shall show amounts budgeted for the Limited Common Elements.

C. Levy of Assessment. After adoption of a budget and determination of the annual Assessment per Unit, the Association shall assess such sum by promptly notifying all Unit Owners by delivering or mailing notice thereof to the Voting Interest representing each Unit at such Member's most recent address as shown by the books and records of the Association. Each Unit's pro rata share of the annual Assessment shall be due and payable monthly in advance to the Association, regardless of whether Members are sent or actually receive written notice thereof. In addition, the Association shall have the power to levy equal Special Assessments against each Unit if necessary to cover the Common Expenses.

D. Owners Responsibility for Payment. The record Owners of each Unit shall be personally liable, jointly and severally, to the Association for the payment of all Assessments and Special Assessments made by the Association and for all costs for collecting delinquent Assessments and/or Special Assessments. All Assessment and Special Assessment installments not paid when due shall bear interest at the maximum interest rate that is allowed by law. In the event Assessments and Special Assessments against a Unit are not paid within thirty (30) days after their due date, the Association shall have the right to take any and all of the following actions:

1. Administrative Late Fee. Charge an administrative late fee in the amount not more than maximum permitted under the Condominium Act, for each installment of the Assessment and/or Special Assessment that the payment is late.

2. Acceleration of Installments. The Association may accelerate the remaining Assessment and/or Special Assessment installments upon filing claim of lien and notice to the Unit Owner, after which the unpaid balance of the Assessment and/or Special Assessment shall come due upon the date stated in the notice, but not less than ten (10) days after delivery of notice to the Unit Owner, or not less than twenty (20) days after mailing of such notice to the Unit Owner by registered or certified mail, whichever shall first occur. Accelerated Assessments and/or Special Assessments shall be due and payable on the date the claim of lien is filed and shall include all amounts due for the remainder of the budget year in which the claim of lien was filed.

3. Foreclose Lien. The Association may record and foreclose a lien in the manner set forth in Article (XIII) of this Declaration and the Condominium Act and charge an administrative late fee in addition to interest, in an amount not in excess of the maximum amount permitted under the Condominium Act for each delinquent installment.

4. Sue for Money Judgment. The Association may bring an action to recover a money judgment for unpaid Assessments and/or Special Assessments, interest, late charges, and the Association's reasonable attorney's fees.

E. Special Assessments. Should the Association, through its Board of Directors, at any time determine that the Assessments made are not sufficient to pay the Common Expenses, or in the event of emergencies, the Board of Directors shall have the authority to levy and collect Special Assessments to meet such needs of the Association. The specific purpose or purposes of any Special Assessment shall be set forth in a written notice of such Special Assessment sent or delivered to each Unit Owner. The funds collected pursuant to a Special Assessment shall be used only for the specific purpose or purposes set forth in such notice. Any excess funds shall be considered as Common Surplus and either be returned to the Unit Owners or applied as a credit towards future Assessments. However, upon completion of such specific purpose or purposes, any excess funds shall be considered Common Surplus.

F. No Common Element Fees. The Association shall not charge any fee against a Unit Owner for the use of Common Elements or Association Property unless such use is the subject of a lease between the Association and the Unit Owner.

G. No Avoidance of Assessments. The liability for an Assessment or Special Assessment may not be avoided by waiver of the use or enjoyment of any Common Element, or by abandonment of the Unit for which the Assessments are made.

XIII. LIEN OF THE ASSOCIATION

A. Association Liens. The Association shall have a lien on each Condominium Parcel for any unpaid dues, Assessments, Special Assessments, late charges, and interest thereon against the Unit Owner of such Condominium Parcel. Said lien shall also secure reasonable attorney's fees incurred by the Association incident to collection of such Assessment and/or Special Assessment or enforcement of such lien. The lien shall be recorded in the Public Records of Charlotte County, Florida, and shall contain a description of the Condominium Parcel, the name of the Unit Owner(s) shown in the public records, the name and address of the Association, the amount due and the due dates. The lien shall be effective from and shall relate back to the date of recording this Declaration. As to first mortgages of record, the lien is effective from and after recording of the claim of lien. The lien shall continue in effect until all sums secured by the lien shall have been fully paid or barred by law. Such claims of liens shall include only Assessments and Special Assessments which are due and payable when the claim of lien is recorded. Such claims of lien shall be signed and verified by an officer or agent of the Association and shall then be entitled to be recorded. Upon full payment the party making payment shall then be entitled to a recordable satisfaction of the lien.

B. Lien Duration and Enforcement. No such lien shall continue for a longer period than one (1) year after the claim of lien has been recorded, unless within that time an action to enforce the lien is commenced in a court of competent jurisdiction. The claim of lien shall secure all unpaid Assessments and/or Special Assessments, interest, costs, and attorney's fees, which are due and which may accrue subsequent to the recording of the claim of lien and prior to entry of a final judgment of foreclosure. Interest on any Assessments and Special Assessments and installments not paid when due will accrue at the maximum rate allowed by law.

C. Liability for Assessments. All such liens shall be subordinate to the lien of an Institutional Mortgagee holding a first mortgage recorded prior to the time of recording of the claim of lien except as stated herein. A Unit Owner, regardless of how his title has been acquired, including a purchaser at a judicial sale, is liable for all Assessments and Special Assessments which come due while he is a Unit Owner. The current Unit Owner is jointly and severally liable with the prior Unit Owner for all unpaid Assessments and Special Assessments against the prior Unit Owner for his share of the Common Expenses up to the time of transfer of title, without prejudice to any right the current Unit Owner may have to recover from the prior Unit Owner the amounts paid by the current Unit Owner.

1. First Mortgagee Liability for Assessments. A first mortgagee who acquires title to the Condominium Parcel by foreclosure or by deed in lieu of foreclosure is liable for the unpaid Assessments and Special Assessments that became due prior to the mortgagee's receipt of the deed. However, the mortgagee's liability is limited to the lesser of:

(a) The Condominium Parcel's unpaid Common Expenses and regular periodic Assessments which accrued or came due during the six (6) months immediately preceding the acquisition of title and for which payment in full has not been received by the Association; or

(b) One percent (1%) of the original mortgage debt. The provisions of this subparagraph shall not apply unless the first mortgagee joined the Association as a defendant in the foreclosure action.

(c) Joinder of the Association is not required if, on the date the complaint is filed, the Association was dissolved or did not maintain an office or agent for service of process at a location which was known to or reasonably discoverable by the first mortgagee.

D. Purchasers Obligation to Pay Assessment. Except as to first mortgagees, a person acquiring title to a Condominium Parcel shall pay any Assessments, Special Assessments, late fees, interest, costs and attorney's fees owed to the Association within thirty (30) days after transfer of title. Failure to pay the full amount of Assessments, Special Assessments, late fees, interest, costs and attorney's fees when due shall entitle the Association to record a claim of lien against the Condominium Parcel and proceed in the same manner as provided in this Article.

E. Assessment Certificate. Any person purchasing or encumbering a Unit shall have the right to rely upon any statement made in writing by an Officer of the Association regarding Assessments and Special Assessments against Units which have already been made or which are due and payable to the Association. The Association shall provide a certificate stating all

Assessments, Special Assessments and other monies owed to the Association by the Unit Owner. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby.

XIV. TAXATION

Whenever an Assessment is assessed against the Condominium Property, instead of against each Condominium Parcel, it shall be treated as a Common Expense, in accordance with the provisions of Article (XII).

XV. MAINTENANCE AND REPAIR

A. Unit Owners Responsibility for Maintenance and Repair. The Unit Owner is responsible to maintain, repair and replace all air-conditioning and heating equipment serving his or her Unit whether located within or outside the Unit and each Unit Owner shall maintain the interior of his or her garage spaces and maintain and repair any boat lift installed in such Unit Owner's Boat Slip. Each Unit Owner, at his own expense, shall maintain, repair, replace and be responsible for the maintenance of his Unit, its equipment and fixtures including but not limited to painting, replastering, sealing and polishing of the interior finished surfaces of the perimeter walls, ceiling and floor which constitute the boundary lines of the Unit therein and must promptly correct any condition which would, if left uncorrected, cause any damage to another Unit or the Common Elements, and shall be responsible for any damages caused by his non-action. Each Unit Owner shall at his own expense maintain and replace when necessary all screening within or in a Unit or the lanai attached to the Unit, and all glass in windows and doors in the perimeter walls of a Unit. All work shall be done without disturbing other Unit Owners. Provided, however, that no Unit Owner may change the exterior appearance of his Unit without prior Association approval in writing. The Unit Owner shall promptly report to the Association any defect or need for repairs for which the Association is responsible.

B. Association Responsibility for Maintenance and Repair. The Association shall be responsible for the maintenance, repair and operation of the Common Elements, and those portions of the Limited Common Elements which are not the Owner's responsibility, including, but not limited to those portions of a Unit, except interior surfaces, contributing to the support of the Unit, load bearing columns and load bearing walls, driveways and roofs. The painting, decorating or changing of any portion of the walls not part of the Unit and all conduits, ducts, plumbing, piping, wiring and other facilities for the furnishing of utility service contained within a Unit that service part or parts of the Condominium other than the Unit shall be the responsibility of the Association, and not the individual Unit Owner. The Association shall have all powers necessary to discharge these responsibilities, and may exercise these powers exclusively if it so desires, or may delegate them as elsewhere provided for in this Declaration and the Bylaws.

C. Enforcement of Maintenance Against Association by Specific Performance. The maintenance and operation of the Common Elements shall be the responsibility of the Association and shall be a Common Expense. In the event the Association fails to maintain the Common Elements in accordance with its obligations hereunder, any Unit Owner shall have the right to seek

specific performance in a court of equity to compel the Association to do so.

D. Enforcement of Maintenance Against Unit Owner by Specific Performance. In the event a Unit Owner fails to maintain his Unit or those portions of the Limited Common Elements which are his or her responsibility, or makes any additions or alterations to Common Elements without written consent, the Association or any Unit Owner shall have the right to proceed in a court of equity to seek compliance with the provisions hereof; provided that a Unit Owner does not have authority to act for the Association by reason of being a Unit Owner.

E. Enforcement by Association or Unit Owners in Court of Law. The Board of Directors or any Member shall have the right to maintain an action because of the failure of a Unit Owner or the Association to comply with the terms of the Declaration, Articles, the Bylaws, or the rules and regulations; as they may be amended from time to time. In such an action, the prevailing party shall be entitled to recover the costs of the proceeding together with reasonable attorneys' fees.

F. Failure to Enforce Not a Waiver. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles, the Bylaws, or the rules and regulations shall not constitute a waiver of the right to do so thereafter.

XVI. ALTERATION OF COMMON ELEMENTS

A. Procedure for Approval of Alterations or Improvements. No Unit Owner or the Board shall make or cause to be made substantial and material alterations, improvements or additions to the Common Elements, except in accordance with the following provisions:

1. A special meeting of Members shall be called for the purpose of acting upon the proposal for such substantial alteration, improvement or addition, upon not less than fourteen (14) days written notice.
2. Three-fourths (3/4) of the Votes of the Voting Interests must be cast in favor of the proposal at the special meeting. Votes may be cast in person or by proxy.
3. If approved, each Unit Owner shall be assessed his proportionate cost of such alteration, improvement or addition based upon that Unit Owner's share of the Common Elements.

XVII. WAIVER OF PARTITION

By holding title in a Unit, the Developer and each subsequent Unit Owner waives the right to partition any interest in the Common Elements under the laws of the State of Florida as they exist now or as amended until this Condominium is terminated pursuant to the Declaration or by law. Any Unit Owner may freely convey an interest in a Unit together with an undivided interest in the Common Elements subject to the provisions of this Declaration.

XVIII.

LIABILITY INSURANCE, LIMITATION OF LIABILITY AND OTHER INSURANCE

A. Liability Insurance. The Board of Directors shall obtain liability insurance in such amounts as the Board of Directors may determine from time to time for the purpose of providing liability insurance coverage for the Common Elements. The Board of Directors shall collect and enforce the payment of the premium for such insurance from each Unit Owner for his share in the Common Elements. Each individual Unit Owner shall be responsible for the purchasing of liability insurance for accidents occurring in his Unit or for which he may be liable. In accordance with the provisions of the Condominium Act, the liability of a Unit Owner for Common Expenses shall be limited to amounts for which he is assessed from time to time in accordance with the Condominium Act, this Declaration and the Bylaws. The Unit Owner may be personally liable for the acts or omissions of the Association in relation to the use of the Common Elements, but only to the extent of his share in the Common Elements. In any legal action in which the Association may be exposed to liability in excess of insurance coverage protecting it and the Unit Owners, the Association shall give notice of the exposure within a reasonable time to all Unit Owners, and they shall have the right to intervene and defend. A Unit Owner shall be liable for injuries or damages resulting from an accident in his own Unit to the same extent and degree that the owner of a residence in Charlotte County, Florida would be liable for an accident occurring therein.

B. Additional Insurance. In addition, the Association shall use its best efforts to maintain adequate insurance for Workers Compensation, fidelity insurance as required by the Condominium Act for persons who control or disburse Association funds and such other insurance as the Board of Directors determines to be desirable.

XIX.

PROVISIONS FOR CASUALTY INSURANCE, PAYMENT OF PROCEEDS, RECONSTRUCTION

A. Purchase Of Insurance. The Board of Directors shall keep the Condominium Property insured, including the building, fixtures and personal property appurtenant thereto, and all Units contained therein, both for the interest of the Association and all Unit Owners and their mortgagees, as their respective interest may appear, in an amount which shall be equal to the maximum insurable replacement value of the Condominium as determined annually by the insurance carrier, against loss or damage by fire and hazards covered by a standard coverage endorsement and such risks of a similar or dissimilar nature as are customarily covered with respect to buildings similar in construction, location and use to the Condominium. The word "building" as used in this paragraph shall be as defined in Florida Statutes Section 718.111(11)(b).

B. Insured and Loss Payable. All casualty insurance policies purchased by the Association hereunder shall be for both the benefit of the Association and all Unit Owners and their mortgagees, as their respective interest may appear, and shall provide that all proceeds covering casualty losses shall be paid to the Board of Directors who shall act as the insurance trustee and it shall be the duty of the Board of Directors acting as insurance trustee to receive such proceeds as are paid to them and to hold the same in trust pursuant to the terms of this Declaration.

C. Payment of Premiums. The Board of Directors shall collect and pay the premiums for casualty insurance as part of the Common Expenses for which Assessments are levied. Each Unit Owner shall pay and be responsible for casualty insurance premiums and all fees and expenses of the Board of Directors acting as the insurance trustee in the same manner as all other Assessments.

D. Reconstruction or Repair after Casualty. If any part of the Condominium Property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

1. Common Element. If the damaged Condominium Property is a Common Element or Limited Common Element, it shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the Condominium should be terminated.

2. Units.

(a) Lesser Damage. If the damaged Condominium Property is a Unit, and if at least fifty percent (50%) of the Units in the Condominium are found by the Board of Directors to be tenantable, the Unit shall be reconstructed or repaired.

(b) Major Damage. If more than fifty percent (50%) of the Units in the Condominium are found by the Board of Directors not to be tenantable, then the Units will not be reconstructed or repaired and the Condominium will be terminated as elsewhere provided, unless within sixty (60) days after the casualty Voting Interests of at least seventy-five percent (75%) of the Votes agree in writing to such reconstruction or repair.

(c) Reconstruction. Any reconstruction or repair must be (i) substantially in accordance with the plans and specifications for the damaged building immediately before the casualty, or (ii) according to plans and specifications approved by the Board of Directors and by at least seventy-five percent (75%) of the Voting Interests.

(d) Responsibility. If the damage is only to a portion of one (1) Unit for which the responsibility of maintenance and repair is that of the Unit Owner, then the Unit Owner shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the Association. 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 costs to rebuild or repair.

(e) Assessments. If the net proceeds of insurance are insufficient to pay the estimated cost of reconstruction and repair, the Board of Directors shall promptly, upon determination of deficiency, levy a uniform Special Assessment against all Unit Owners for the deficiency related to Common Elements. The Board may also charge individual Unit Owners for the portion of the deficiency related to individually damaged Units; provided, however, that if in the opinion of the Board of Directors, it is impossible to adequately and accurately determine the portion of the deficiency related to individually damaged Units, the Board of Directors shall levy the Special Assessment for the total deficiency against all Unit Owners according to the percentage as

set forth in Article (VII) of this Declaration.

3. Disbursement of Funds. The funds for payment of costs for reconstruction and repair after casualty, which consist of funds collected by the Association from Assessments and/or Special Assessments against the Unit Owners, shall be disbursed in the following manner:

(a) By the Association. The funds shall be held by the Association and disbursed by it in payment of those costs of reconstruction and repair that are the responsibility of the Association in the manner required by the Board of Directors. The Directors may hire an architect qualified to practice in the State of Florida to supervise the work and approve disbursements.

(b) Unit Owner Repairs. Any portion of the fund representing damages for which the responsibility of reconstruction and repair lies solely with a Unit Owner shall be paid by the Association to the Unit Owner, or if there is a mortgagee endorsement in the Unit Owner's insurance policy, then to the Unit Owner and the mortgagee jointly.

(c) Surplus. If it is determined as provided under this Article that the damaged Condominium Property for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be allocated among the beneficial Owners as provided in subparagraph B and distributed to each Unit Owner by check made payable jointly to the Unit Owner and his respective mortgagee, if any. If after reconstruction or repair there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners by check made payable to the Unit Owner and his respective mortgagee, if any; except that if the Unit Owner has been assessed as provided in subparagraph D.2.(e) above, the mortgagee shall only be entitled to that portion of the distribution after deducting the Unit Owner's Assessment, presuming that the first monies disbursed in payment of costs of reconstruction and repair are from insurance proceeds.

XX. MORTGAGES - SUBORDINATION

A. A Unit Owner who mortgages his Condominium Parcel must notify the Association of the name and address of his mortgagee, and the Association shall maintain such information in a register which shall, among other things, contain the names of all of the Unit Owners and the names of the mortgagees holding mortgages on their Condominium Parcels. The failure to notify the Association of the existence of a mortgage shall in no way impair the validity of the mortgage. The Association shall, at the request of a mortgagee, report any unpaid Assessments and/or Special Assessments due from the Unit Owner.

B. Subordination. No breach of any of the provisions contained herein shall defeat or adversely affect the lien of any mortgage at any time made in good faith upon a Condominium Parcel, or any part thereof, and made by a bank, savings and loan association, mortgage company, or insurance company authorized to transact business in the State of Florida, and engaged in the business of making loans constituting a first lien upon real property for a valuable consideration. The rights and remedies herein granted to the Developer, the Association and any Unit Owner may

be enforced against the Unit Owner of the Condominium Parcel subject to such mortgage notwithstanding such mortgage. The purchaser at any sale upon foreclosure shall be bound by all of the provisions herein contained.

**XXI.
DEVELOPER'S UNITS, RIGHTS AND PRIVILEGES**

A. Developer Sales. The Developer reserves and has the right to sell Units and Condominium Parcels to any purchaser approved by it, subject, however, to the use restrictions. The Developer shall have the right to transact any business necessary to consummate the sale of Units, including but not limited to the right to maintain models, advertise on the Condominium, and use the Common Elements. In the event there are unsold Condominium Parcels, the Developer retains the right to ownership thereof under the same terms and obligations as other Owners of Condominium Parcels. This Article shall not be amended without the written consent of the Developer so long as the Developer holds any Units for sale in the ordinary course of business. If the provisions of this Article conflict with any other Article, then this Article shall govern.

B. Developer Excused from Assessments/Guarantee. The Developer shall be excused from payment of its share of common expenses and assessments related to unsold Units in Developer's name for a period of one (1) year from the date of recording of the Deed of the first condominium Unit sold. The Developer guarantees to each purchaser that the assessments for common expenses of the condominium imposed upon the Unit Owners will not increase over \$500.00 per Unit per month for a twelve-month period beginning from the date of the recording of the Deed of the first condominium Unit sold. If at any time during the guarantee period, the funds collected from Unit Owner assessments at the guaranteed level are not sufficient to provide payment, on a timely basis, of all common expenses, including the full funding of the reserves unless properly waived, the Developer shall advance sufficient cash to the Association at the time such payments are due. No revenues or capital contributions other than regular periodic assessments, and cash payments by the Developer as provided above may be utilized for the payment of common expenses during the guarantee period. This restriction includes items such as interest revenues, vending revenues, laundry revenues, other non-assessment revenues, and capital contributions. The Developer may, at the Developer's option, extend the guarantee period for two additional one-year periods.

**XXII.
SEPARABILITY OF PROVISION**

Invalidation of any of the covenants, conditions, limitations or provisions of this Declaration, the Articles, the Bylaws or the Condominium Act, shall in no way affect the remaining part or parts hereof which are unaffected by such invalidation, and the same shall remain effective.

**XXIII.
TERMINATION**

This Condominium may be terminated as provided for by Florida Statutes Section

718.117. Upon termination, the undivided share of the Common Elements owned in common by each Unit Owner shall be one-eighteenth (1/18).

XXIV. EASEMENTS

A. Covenant Running with Land. Each of the following easements is a covenant running with the land included in the Condominium Property and shall survive the termination of the Condominium.

B. Utilities, Drainage. Easements are reserved under, through and over the Condominium Property as may be required for utility, cable television, communications and security service and drainage in order to adequately serve the Condominium.

C. Pedestrian and Vehicular Traffic. Non-exclusive easements shall exist for pedestrian and vehicular traffic over, through and across sidewalks, paths, walks, roads, driveways, stairways, streets and other portions of the Common Elements as may be from time to time intended and designated for such purposes and uses and such easements shall be for the use and benefit of the Unit Owners within this Condominium, including their guests, licensees or invitees; provided, however, nothing herein shall be construed to give or create in any person the right to park any vehicle upon any portion of the Condominium Property except an area specifically designated and assigned for such purposes.

D. Easement for Unintentional and Non-Negligent Encroachments. If a Unit shall encroach upon any Common Element, Limited Common Element, or upon any other Unit, by reason of original construction or by the non-negligent or non-purposeful act of the Developer, then an easement appurtenant to such encroaching Unit, to the extent of such encroachment, shall exist so long as such encroachment shall exist. If any Common Element or Limited Common Element shall encroach upon any Unit by reason of original construction or the non-purposeful or non-negligent act of the Association or the Developer, then an easement appurtenant to such Common Element, Limited Common Element, or to the extent of such encroachment, shall exist so long as such encroachment shall exist.

E. Support. Every portion of a Unit contributing to the support of a Condominium building or an adjacent Unit shall be burdened with an easement of support for the benefit of all other Units and Common Elements in the building.

F. Perpetual Non-Exclusive Easement in Common Elements. The Common Elements (other than the Limited 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 Unit Owners 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 the Unit Owners.

G. Right of Access to Units. The Association shall have the irrevocable right of access to each Unit during reasonable hours, when necessary, for the maintenance, repair or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association or as

necessary to prevent damage to the Common Elements or to a Unit or Units.

H. Construction; Maintenance. The Developer (including its designees, contractors, successors and assigns) shall have the right, in its (and their) sole discretion from time to time, to enter the Condominium Property and take all action necessary or convenient for the purpose of completing the construction thereof, or any part thereof, or any Units located or to be located thereon, and for repair, replacement and maintenance purposes where the Association fails to do so or where the Developer, in its sole discretion, determines that it is necessary to do so. This right shall terminate at such time as Unit Owners other than the Developer are entitled to elect not less than a majority of the members of the Board of Directors of the Association.

I. Sales Activity. The Developer, as long as it holds any units for sale in the ordinary course of business, shall have the right to use any such Units and parts of the Common Elements for model dwellings and sales and construction offices, to show model Units and the Common Elements to prospective purchasers of Units, and to erect signs and other promotional material on the Condominium Property to advertise Units for sale.

J. Additional Easements. The Developer and the Association, on their own behalf and on behalf of all Unit Owners (each of whom hereby appoints the Developer and the Association as its attorney-in-fact for this purpose), shall each have the right to grant such additional electric, gas or other utility, cable television, security system, communications, drainage or service easements. The Developer and Association may also relocate any such existing easements or drainage facilities, in any portion of the Condominium Property, and grant access easements or relocate any existing access easements in any portion of the Condominium Property, as the Developer or the Association shall deem necessary or desirable for the proper operation and maintenance of the Condominium, or any portion thereof, or for the general health or welfare of the Unit Owners, or for the purpose of carrying out any provisions of this Declaration, provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the use of the Units for dwelling purposes. In addition, the Developer shall have the right to provide bills of sale for equipment, conduits, pipes, lines and similar installations pertaining thereto. This subparagraph J shall not be amended nor shall the Condominium Plat be amended in any way to defeat, restrict or reduce the Developer's rights herein contained without the written consent of the Developer; provided that the Developer's right to grant easements as herein provided shall terminate at such time as Unit Owners other than the Developer are entitled to elect not less than a majority of the Board of Directors of the Association.

K. Ingress and Egress; Subordinate Liens. All easements for ingress and egress granted in this Article (XXIV), or elsewhere herein, shall not be encumbered by any leasehold or lien other than those on the Condominium Parcels; but if so encumbered, then any such lien shall be subordinate to the rights of Unit Owners.

XXV. ENFORCEMENT

A. Legal Action. Each Unit Owner, tenant, and other invitee shall comply with this Declaration, the Articles, the Bylaws, the rules and regulations, and the provisions of the

Condominium Act, and the provisions thereof shall be deemed expressly incorporated into any lease of a Unit. The Association shall have the right to evict a tenant or remove any guest or invitee. Actions for damages or for injunctive relief, or both, for failure to comply with these provisions may be brought by the Association or by a Unit Owner against:

1. The Association.
2. Another Unit Owner.
3. Directors designated by the Developer, for actions taken by them prior to the time control of the Association is assumed by Unit Owners other than the Developer.
4. Any Director who willfully and knowingly fails to comply with these provisions.
5. Any tenant leasing a Unit, and any other invitee occupying a Unit.

B. Attorneys Fees. The prevailing party in any such action shall be entitled to recover its reasonable attorney's fees. A Unit Owner, prevailing in an action against the Association, in addition to recovering his attorney's fees, may recover additional amounts as determined by the Court to be necessary to reimburse the Unit Owner for his share of Assessments levied by the Association to fund its expenses of the litigation.

C. Negligence. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association.

D. Fines. In addition, the Association may levy reasonable fines against a Unit for the failure of the Owner of the Unit, or its occupant, licensee, or invitee, to comply with any provision of the Declaration, the Bylaws, or the rules and regulations of the Association. No fine will become a lien against the Unit. No fine may exceed the maximum amount permitted under the Condominium Act; provided, however, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, provided that no such fine shall in the aggregate exceed the maximum amount permitted under the Condominium Act. No fine may be levied except after giving reasonable notice and opportunity for a hearing to the Unit Owner, and, if applicable, its licensee or invitee. These provisions shall not apply to unoccupied Units.

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

XXVII. COVENANT RUNNING WITH THE LAND

All provisions of this Declaration, the Articles, Bylaws and applicable rules and regulations enacted pursuant thereto, 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 described in Article (IV) of this Declaration and with every part thereof and interest therein, unless this Declaration shall be terminated pursuant to the Condominium Act or as provided herein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the Developer and all subsequent 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, tenants and occupants of Units shall be subject to and shall comply with the provisions of this Declaration and such Articles, Bylaws and rules and regulations enacted pursuant thereto, 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, Articles, Bylaws and rules and regulations enacted thereto.

IN WITNESS WHEREOF, the Developer has executed this Declaration of Condominium this 24th day of April, 2007.

T.C.K. INVESTMENTS, L.L.C.
a Florida limited liability company

By: [Signature]
VINCENT LOMBARDI, its Manager

[Signature]
First Witness

[Signature]
Second Witness

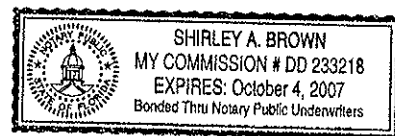
STATE OF FLORIDA
COUNTY OF CHARLOTTE

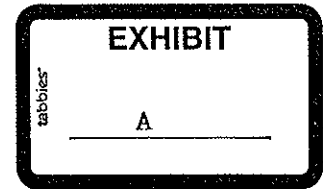
Before me, the undersigned authority, personally appeared VINCENT LOMBARDI, as Manager of T.C.K. INVESTMENTS, L.L.C., a Florida limited liability company, to me known to be the person described or who produced NA as identification and who executed the foregoing Declaration of Condominium and acknowledged before me according to law that he made and subscribed the same for the purposes therein expressed and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in County of Charlotte, State of Florida, this 24th day of April, 2007.

My Commission Expires:

[Signature]
Notary Public - State of Florida





FLORIDA DEPARTMENT OF STATE
Glenda E. Hood
Secretary of State

April 25, 2005

WATER GARDENS ASSOCIATION, INC.
1625 NORTH COMMERCE PARKWAY SUITE 315
WESTON, FL 33326

The Articles of Incorporation for WATER GARDENS ASSOCIATION, INC. were filed on April 22, 2005, and assigned document number N05000004189. Please refer to this number whenever corresponding with this office.

This document was electronically received and filed under FAX audit number H05000099721.

A corporation annual report/uniform business report will be due this office between January 1 and May 1 of the year following the calendar year of the file/effective date. A Federal Employer Identification (FEI) number will be required before this report can be filed. Please apply NOW with the Internal Revenue Service by calling 1-800-829-3676 and requesting form SS-4.

Please be aware if the corporate address changes, it is the responsibility of the corporation to notify this office.

Should you have any questions regarding corporations, please contact this office at the address given below.

Sincerely,
Becky McKnight
Document Specialist
New Filings Section
Division of Corporations

Letter Number: 805A00028143

**ARTICLES OF INCORPORATION
OF
WATER GARDENS ASSOCIATION, INC.
(A Not-For-Profit Corporation)**

THE UNDERSIGNED INCORPORATORS HEREBY ASSOCIATE THEMSELVES FOR THE PURPOSE OF FORMING A CORPORATION NOT-FOR-PROFIT UNDER AND PURSUANT TO FLORIDA STATUTES CHAPTER 617 AND DO HEREBY CERTIFY AS FOLLOWS:

ARTICLE 1
NAME

The name of this corporation shall be **WATER GARDENS ASSOCIATION, INC.**, a not-for-profit corporation with its principal place of business and mailing address at 1625 NORTH COMMERCE PARKWAY, SUITE 315, WESTON, FLORIDA 33326. For convenience, the corporation shall be herein referred to as the "Association".

ARTICLE 2
PURPOSE

1. The purpose for which the Association is organized is to provide an entity pursuant to Florida Statutes Chapter 718, (the "Condominium Act") for the operation of **WATER GARDENS, A CONDOMINIUM**, ("Condominium"), to be located upon land in Charlotte County, Florida, more particularly described in Article IV of the Declaration of Condominium of **WATER GARDENS, A CONDOMINIUM** ("Declaration").

2. The Association shall make no distribution of income to its Members, Directors or Officers.

ARTICLE 3
POWERS AND DUTIES

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

1. The Association shall have all of the common-law and statutory powers of a corporation not-for-profit not inconsistent with the Condominium Act.

2. The Association shall have all of the powers and duties set forth in the Declaration and these Articles of Incorporation ("Articles") not inconsistent with the Condominium Act and all of the powers and duties reasonably necessary to operate the Condominium pursuant to the Declaration, as it may be amended from time to time, including but not limited to the following:

a. To make and collect Common Expenses against Members as necessary to defray costs, expenses and losses of the Condominium. Provided, however, the Association shall

not charge any fee against a Unit Owner for the use of Common Elements or Association Property unless such use is the subject of a lease between the Association and the Unit Owner.

- b. To use the proceeds of assessments in the exercise of its powers and duties.
- c. To undertake the maintenance, repair, replacement and operation of the Common Elements and Limited Common Elements.
- d. To purchase policies of insurance for the Common Elements and Limited Common Elements and for the protection of the Association and its Members, as provided in the Condominium Act.
- e. To construct improvements after casualty and for the improvement of the Condominium Property.
- f. To make and amend reasonable rules and regulations respecting the use of the Common Elements and Limited Common Elements and amend these Articles as provided in Article 9.
- g. To approve or disapprove the transfer, mortgage and ownership of Units as may be provided by the Declaration and the Bylaws of the Association ("Bylaws").
- h. To enforce by legal means the provisions of the Condominium Act, the Declaration, these Articles, the Bylaws and the rules and regulations for the use of the Condominium Property.
- i. To contract for the management of the Condominium where such management of the Condominium does not contravene the Declaration, the Condominium Act and the Florida General Corporation Act.
- j. To contract for the management or operation of portions of the Common Elements susceptible to separate management or operation.
- k. To employ personnel to perform the services required for the proper operation of the Condominium.
- l. To acquire, own, sell, encumber, and convey both real and personal property and otherwise whole property for the use and benefit of its members.
- m. To operate and maintain the surface water management system facilities.
- n. To sue and be sued.
- o. To contract per services.
- p. To take any other action necessary for the purpose for which the Association

is organized.

3. All funds and the titles of all properties acquired by the Association and their proceeds shall be held in trust for the Members in accordance with the provisions of the Declaration and the Bylaws.

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

5. The Association shall have the duty to maintain official records as set forth in Florida Statutes Section 718.111(12).

ARTICLE 4 MEMBERS

1. The Members of the Association shall consist of all of the record owners with a present vested interest in a Unit in the Condominium; and after termination of the Condominium shall consist of those who are Members at the time of such termination and their successors and assigns.

2. Change of Membership in the Association shall be effected by recording in the Public Records of Charlotte County, Florida, a deed or other instrument establishing record title to a Unit in the Condominium and the delivery to the Association of a certified copy of such instrument. Upon recordation and delivery of such instrument, the Unit Owner designated therein shall become a Member of the Association and the Membership of the prior Unit Owner shall be terminated.

3. The share of a Member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his Unit.

4. All Owners of each Unit shall collectively be entitled to one (1) vote ("Vote") at Membership meetings. If a Unit is owned by more than one person, then the person entitled to cast such Vote shall be determined as follows:

A Voting Certificate must be filed with the Secretary of the Association, in writing, signed under oath by all Unit Owners with a present vested interest in the Unit and shall state:

a. The respective percentage interest (as recorded in the Public Records of Charlotte County, Florida) of each of the Owners in the fee title of the Unit;

b. Which of the Owners will represent all of the Owners at Membership meetings and cast the Vote to which they are collectively entitled. The person so designated shall be known as the Voting Interest and shall be the only one of the Owners eligible to cast the Vote for that Unit at Membership meetings. The person designated as the Voting Interest may continue to cast the Vote for all of the Owners of the Unit until such time as another person is properly designated, in the manner set forth above, as the Voting Interest for the Unit.

ARTICLE 5
DIRECTORS

1. The affairs of the Association shall be managed by a Board of Directors ("Board") consisting of the number of Directors determined by the Bylaws, but not less than three (3) Directors. In the absence of such a determination, the Board shall consist of three (3) Directors. All Directors, other than those Directors appointed by the Developer, shall be Members of the Association. Provided, however, that after turnover, non-Members may serve as Directors upon amendment of the Bylaws to allow a non-Member to serve as a Director. Directors shall be elected annually by the Members at a meeting to be held the last Friday in March of each year as provided in the Bylaws and the Condominium Act. The qualification of the Directors is stated in the Bylaws.

2. The names and addresses of the initial Board, who shall hold office until their successors are elected and have qualified, or unless removed for cause, are as follows:

| <u>NAME</u> | <u>ADDRESS</u> |
|-------------------|---|
| VINCENZO LOMBARDI | 3906 Lacosta Island Court Punta Gorda, Florida 33950 |
| ALFONSO ALBACETE | 1625 North Commerce Parkway Suite 315 Weston, Florida 33326 |
| CIRO MARTINEZ | 1625 North Commerce Parkway Suite 315 Weston, Florida 33326 |

ARTICLE 6
OFFICERS

The affairs of the Association shall be administered by the Officers designated by the Bylaws. The Officers shall be elected by the Board at its first meeting following the annual meeting of the Members of the Association and shall serve at the pleasure of the Board. The names and addresses of the Officers who shall serve until their successors are designated by the Board are as follows:

| <u>OFFICERS</u> | <u>TITLE</u> | <u>ADDRESS</u> |
|-------------------|--------------|---|
| VINCENZO LOMBARDI | President | 3906 Lacosta Island Court Punta Gorda, Florida 33950 |
| ALFONSO ALBACETE | Secretary | 1625 North Commerce Parkway Suite 315 Weston, Florida 33326 |

CIRO MARTINEZ Treasurer

1625 North Commerce Parkway
Suite 315
Weston, Florida 33326

ARTICLE 7
INDEMNIFICATION

Every Director, Officer and committee member of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees through all trial and appellate levels, reasonably incurred by or imposed in connection with any proceeding, arbitration, or settlement to which such person may be a party, or in which they may become involved, by reason of being or having been a Director, Officer or committee member of the Association. Notwithstanding the foregoing, in the event of a voluntary settlement, the indemnification provisions herein shall not be automatic and shall apply only when the Board approves such settlement. Notwithstanding anything contained herein to the contrary, in instances where the Director, Officer, or committee member admits or is adjudged guilty of willful misfeasance or nonfeasance in the performance of their duties, the indemnification provisions contained herein shall not apply. Otherwise, the foregoing right of indemnification shall be in addition to and not exclusive of any and all rights of indemnification to which such Director, Officer or committee member may be entitled by common law or statute.

ARTICLE 8
BYLAWS

The Bylaws shall be adopted by the Board and may be altered, amended or rescinded by affirmative vote of not less than a majority of the Votes of the Membership, or as otherwise provided by the Bylaws.

ARTICLE 9
AMENDMENTS

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

1. Written 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 and such notice shall be delivered to each Member at least fourteen (14) days prior to the meeting.
2. A resolution for the adoption of a proposed amendment must be proposed by the Board. Directors shall be permitted to vote only if present at the meeting at which an amendment is considered. Amendments must be adopted by not less than two thirds (2/3) of the Board.
3. Provided, however, that no amendment shall make any changes in the qualifications for Membership nor the Votes of Members, or any change to the proportion or percentage by which the Unit Owner of the parcel shares the Common Expenses and owns the Common Surplus or materially alter or modify the appurtenances to the Unit, without approval in writing by all Members and the joinder of all record owners of mortgages upon the Condominium. No

amendment shall be made that is in conflict with the Condominium Act or the Declaration. This provision shall not prevent amendments to the Declaration in the manner provided therein. An amendment shall not affect the Developer prior to turnover of Association control without Developer's written consent.

4. A copy of each amendment shall be certified by the Secretary of State and shall be recorded in the Public Records of Charlotte County, Florida.

ARTICLE 10
TERM

The term of the Association shall be perpetual; provided, however, that if the Association is dissolved, the control of right of access to the property containing the surface water management system facilities shall be conveyed or dedicated to an appropriate governmental unit or public entity and if not accepted, then the surface water management system facilities shall be conveyed to a non profit corporation similar to the Association.

ARTICLE 11
INCORPORATORS

The names and address of the Incorporator of these Articles of Incorporation is as follows:

| <u>NAME</u> | <u>ADDRESS</u> |
|-------------------|---|
| VINCENZO LOMBARDI | 3906 Lacosta Island Court Punta Gorda, Florida 33950 |

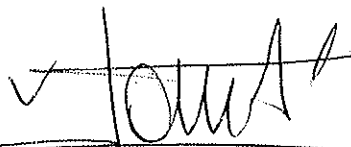
ARTICLE 12
REGISTERED AGENT

The name and address of the Registered Agent for service of process shall be:

VINCENZO LOMBARDI
3906 LACOSTA ISLAND COURT
PUNTA GORDA, FLORIDA 33950

and he is hereby designated as registered agent.

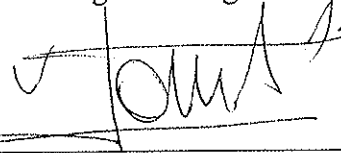
12th day of April, 2005. IN WITNESS WHEREOF, the undersigned has executed this instrument this



VINCENZO LOMBARDI

ACCEPTANCE OF APPOINTMENT BY REGISTERED AGENT

HAVING BEEN NAMED as Registered Agent and to accept service of process for the above-stated Corporation at the place designated in this certificate, I hereby accept the appointment as Registered Agent and agree to act in that capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as Registered Agent.

A handwritten signature in black ink, appearing to read 'V. Lombardi', written over a horizontal line.

VINCENZO LOMBARDI

BYLAWS
WATER GARDENS ASSOCIATION, INC.

1. Identity. These are the Bylaws of **WATER GARDENS ASSOCIATION, INC.**, ("Association"), a corporation not-for-profit under the laws of the State of Florida, the Articles of Incorporation ("Articles") of which are filed in the office of the Secretary of State.

The Association has been organized for the purpose of administering a condominium pursuant to Florida Statutes Chapter 718, called the Condominium Act in these Bylaws, which condominium is identified by the name **WATER GARDENS ASSOCIATION, INC.** ("Condominium"), and is located upon the lands in Charlotte County, Florida described in Article IV of the Declaration of Condominium of **WATER GARDENS, A CONDOMINIUM** ("Declaration").

A. Association Office. The initial office of the Association shall be at 1625 North Commerce Parkway, Suite 315, Weston, FL 33326, until such time as construction of the Condominium Units is complete, after which the office of the Association shall be at 1349 Aquí Esta Drive, Punta Gorda, Florida 33950.

B. Fiscal Year. The fiscal year of the Association shall be the calendar year.

C. Seal. The seal of the Association will bear the name of the Association, the word "Florida", the words "Corporation Not For Profit," and the year of incorporation.

D. Rules and Regulations. The board of directors of the Association, at its discretion, may promulgate rules and regulations as it deems necessary from time to time to administer the Common Elements and Limited Common Elements, as defined in the Declaration.

2. Members' Meetings. All record Owners with a present vested interest in a Condominium Parcel ("Unit") become members of the Association ("Members"). The minutes of all meetings of Members shall be kept in a book available for inspection by their authorized representatives at any reasonable time. The Association shall maintain official records as provided in the Condominium Act

A. Annual Meeting. The annual Members' meeting shall be held at the office of the Association at 1349 Aquí Esta Drive, Punta Gorda, FL 33950, or at such other place in the state of Florida as designated in the Notice of the meeting on the second Tuesday of April of each year for the purpose of electing a board of directors (individually referred to as "Directors" and collectively referred to as "Board") and transacting any other business authorized to be transacted by the Members; provided, however, that if that day is a legal holiday, the meeting shall be held at the same hour on the next day that is not a holiday.

B. Special Meetings. Special Members' meetings shall be held whenever called by the President or Vice-President or by a majority of the Board, and must be called by the President or Vice-President upon receipt of a written request from not less than ten percent (10%) of

the votes of the voting interests of the Association. Voting interest ("Voting Interest") means the person exercising the voting rights distributed to the voting Members and each Unit is entitled to one (1) vote ("Vote").

C. Notice. Written notice, which notice must include agenda items, shall be given to each Member at least fourteen (14) continuous days prior to the annual or any special meeting of the Members, and shall be posted in a conspicuous place on the Condominium Property at least fourteen (14) continuous days preceding the annual or special meeting. "Condominium Property" means the lands, leaseholds, and personal property that are subjected to Condominium ownership, whether or not contiguous, and all improvements thereon intended for use in connection with the Condominium. Upon notice to the Members, the Board shall, by duly adopted rule, designate a specific location on the Condominium Property upon which all notices of meetings shall be posted. Unless a Member waives in writing the right to receive notice of annual or special meetings, the notice of all meetings and notices for all other purposes shall be mailed to each Member at the address last furnished to the Association by the Member, or hand delivered to each Member. However, if a Unit is owned by more than one person, the Association shall provide notice, for meetings and all other purposes, to that one address which the Developer initially identifies for that purpose, and thereafter as one or more of the Owners of the Unit shall so advise the Association, in writing, or if no address is given or the Owners of the Unit do not agree, the address provided on the deed of record. An Officer of the Association, or the manager or other person providing notice of the Association meeting shall provide an affidavit for the United States Postal Service Certificate of Mailing, to be included in the official records of the Association affirming the notice was mailed or hand-delivered, in accordance with this provision, to each Member at the address last furnished to the Association. Any approval by Members called for by the Condominium Act or the Declaration or Bylaws, including, but not limited, to the approval requirement in Florida Statutes Section 718.111(8), shall be made at a duly noticed meeting of Members and shall be subject to all requirements of the Condominium Act or the Declaration, the Articles, these Bylaws and rules and regulations, if any, relating to Member decision-making except that Members may take action by written agreement, without meetings, on matters for which action by written agreement, without meetings, is expressly allowed by these Bylaws, the Declaration, or any Florida Statute which provides for Member action.

D. Action Without Meeting. Except for the annual meeting of Members or any meeting at which the budget is to be considered, any action required to be taken or which may be taken by the Members at any special or annual meeting may be taken without a meeting, without prior notice, and without a vote if a consent in writing setting forth the action to be taken shall be signed by the number of Voting Interests having not less than the minimum number of Votes necessary to authorize such action at a meeting at which all Voting Interests were present and voted. To be effective, the requisite number of signed consents must be delivered to the Association's office within sixty (60) days of the date of the earliest dated consent.

E. Quorum. A quorum for Members' meetings shall consist of a majority of the Votes of the Voting Interests of the entire Membership. The acts approved by a majority of the Votes present at a meeting at which the quorum is present shall constitute the acts of the Members, except when approval of a greater number of Members is required by the Declaration, the Articles or these Bylaws.

F. Voting. All Owners of each Unit shall collectively be entitled to one (1) Vote. If a Unit is owned by more than one (1) person, then the Voting Interest entitled to such Vote shall be determined as follows:

A certificate (hereinafter, the "Voting Certificate") must be filed with the Secretary of the Association, in writing, signed under oath by all Members with a present vested interest in the Unit (hereinafter, the "Owners") and shall state:

(1) The respective percentage interest (as recorded in the Public Records of Charlotte County, Florida) of each of the Owners in the fee title of the Unit;

(2) Which of the Owners will represent all of the Owners at Membership meetings and cast the Vote to which they are collectively entitled. The person so designated shall be known as the Voting Interest and shall be the only one of the Owners eligible to cast the Vote for that Unit at Membership meetings. The person designated as the Voting Interest may continue to cast the binding Vote for all of the Owners of the Unit until such time as another person is properly designated, in the manner set forth above, as the Voting Interest for the Unit.

G. Only One Vote per Unit. There shall not be more than one Voting Interest per Unit at any one time and each may cast one Vote. A corporation, or any individual with an interest in more than one Unit, may be designated as having the Vote for each Unit in which he or it owns an interest. Failure by Owners of a Unit to file a Voting Certificate with the Secretary prior to a Members' meeting will result in depriving the Owners of such Unit of a Vote at such meeting.

H. Proxies. Except as specifically otherwise provided herein or in the Condominium Act, Owners may not cast their Vote by general proxy, but may cast their Vote by limited proxies substantially conforming to a limited proxy form adopted by the Division of Land Sales, Condominiums, and Mobile Homes (the "Division"). Limited proxies and general proxies may be used to establish a quorum. Limited proxies may be used for Votes taken to waive or reduce reserves in accordance with Florida Statutes Section 718.112(f)(2); for Votes taken to waive financial statement requirements provided in Florida Statutes Section 718.111(13); for Votes taken to amend the Declaration; for Votes taken to amend the Articles or these Bylaws; and for any other matter for which the Condominium Act, the Declaration, the Articles, or these Bylaws require or permit a Vote of the Owners. No proxy, limited or general, shall be used in the election of Directors. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. Voting Interests may cast their Vote in person at meetings of Members.

Any proxy given shall be effective only for the specific meeting for which originally given, and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy is revocable at any time at the pleasure of the Voting Interest executing it. A proxy must be filed with the Secretary before the appointed time of the meeting or any adjournment of the meeting.

I. Adjourned Meetings. If any meeting of Members cannot be organized because a quorum has not attended, the Members who are present, either in person or by proxy, may

adjourn the meeting from time to time until a quorum is present.

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

- (1) The collection of election ballots not yet cast.
- (2) Calling of the roll and certifying proxies.
- (3) Proof of notice of meeting or waiver of notice.
- (4) Reading and disposal of any unapproved minutes.
- (5) Reports of Officers.
- (6) Reports of committees.
- (7) Election of inspectors of election.
- (8) Election of Directors.
- (9) Unfinished business.
- (10) New business (including consideration of the budget).
- (11) Adjournment.

The President of the Board shall preside at all meetings. In his absence, the Board shall designate the person to preside.

K. Members Right to Participate. Members shall have the right to participate in meetings of Members with reference to all designated agenda items. However, the Association may adopt reasonable rules and regulations governing the frequency, duration and manner of Member participation. Any Member may tape record or video tape a meeting of the Members subject to such rules and regulations that may be adopted by the Division.

3. Directors.

A. Membership. The affairs of the Association shall be managed by a Board of not less than three or more than seven Directors. The first Board shall consist of three Directors. The number of Directors on the Board may be changed at any time by amending these Bylaws as provided herein.

B. Election. Election of Directors shall be conducted in the following manner:

(1) Election of Directors shall be held at the annual Members' meeting to be held the last Friday in March of each year.

(2) Any Member desiring to be a Director shall comply with the provisions of subparagraph 3 below.

(3) The Directors shall be elected by written ballot or voting machine. All vacancies on the Board caused by the expiration of a Directors' term shall be filled by election of a new Director, and the election shall be by secret ballot; however, if the number of vacancies equals or exceeds the number of candidates, no election is required. Not less than sixty (60) days before a scheduled election, the Association shall mail or deliver, whether by separate Association

mailing or included in another Association mailing or delivery, including regularly published news letters, to each Voting Interest, a first notice of the date of the election. Any Member or other eligible person desiring to be a Director shall give written notice to the Secretary not less than forty (40) days before the scheduled election. In order to be eligible for Board membership, a person must meet the requirements set forth in the Declaration. A person who has been convicted of any felony by any court of record in the United States and who has not had his or her right to vote restored pursuant to law in the jurisdiction of his or her residence is not eligible for Board membership. The validity of an action by the Board is not affected if it is later determined that a member of the Board is ineligible for Board membership due to having been convicted of a felony. Together with the written notice and agenda as set forth in Paragraph 2.C., the Association shall then mail or deliver a second notice of the meeting to all Voting Interests, together with a ballot which shall list all candidates. Upon request of a candidate, the Association shall include an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate not less than 35 days before the election, to be included with the mailing of the ballot, with the cost of mailing, and copying to be borne by the Association. However, the Association has no liability for the contents of the information sheets prepared by the candidates. In order to reduce costs, the Association may print or duplicate the information sheets on both sides of the paper. Voting procedures shall be consistent with the provisions contained herein, rules adopted by the Division and rules providing for the secrecy of ballots. Elections shall be decided by a plurality of those Votes cast. There shall be no quorum requirement; however, at least 20 percent of the Votes must cast a ballot in order to have a valid election of Directors. No Voting Interest shall permit any other person to vote his ballot, and any ballot improperly cast shall be deemed invalid. A Voting Interest who needs assistance in casting his Vote for the reasons stated in Florida Statutes Section 101.051 may obtain assistance in casting the Vote. Any Member violating this provision may be fined by the Association in accordance with the procedure set out in the Declaration and these Bylaws. The regular election of Directors shall occur on the date of the annual meeting of Members. Notwithstanding the provisions of this subparagraph, an election and balloting are not required unless more candidates file notices of intent to run or are nominated than vacancies exist on the Board. Notices of election, notices of candidacy for election, information sheets, voting envelopes, written approval of budgets, written agreements for recall of board members, ballots, sign-in sheets, voting proxies and all other papers relating to voting by Unit Owners shall be maintained as part of the official records of the Association for a period of one (1) year from the date of the election, vote or meeting to which the document relates.

C. Directors Vacancies Between Annual Meetings. Except as to vacancies provided by removal of Directors by Members, Director vacancies occurring between annual meetings of Members shall be filled by the affirmative vote of the majority of the remaining Directors, even if the remaining Directors constitute less than a quorum, or by the sole remaining Director. In the alternative, the Board may hold an election to fill the vacancy, in which case the election procedure must conform to the requirements of Paragraph 3.B. above. A Board member appointed or elected hereunder shall fill the vacancy for the unexpired term of the seat being filled. Notwithstanding Paragraphs 2.F and 3.B.(3), the Association may, by the affirmative vote of a majority of all voting interests, provide for a different voting and election procedure, which vote may be by a proxy specifically delineating the different procedure. The different procedure may provide for elections to be conducted by limited or general proxy.

D. Director Recall. Subject to the provisions of Florida Statutes Section 718.301, any Director may be recalled and removed from the Board with or without cause by the vote or agreement in writing of a majority of all the Voting Interests. A special meeting of the Members to recall a Director or Directors of the Board may be called by ten percent (10%) of the Votes of the Voting Interests giving notice of the meeting as required for a meeting of Members and stating the purpose of the meeting in the notice. The calling of a recall meeting, recall meeting notice, the actual recall meeting, Board action concerning a recall at a meeting, filling vacancies and the manner of keeping Board meeting minutes concerning recall shall be pursuant to Florida Statute Section 718.112(2)(j) and the rules adopted by the Division.

(1) If the recall is approved by a majority of all Votes of the Voting Interests at a meeting, the recall shall be effective as provided herein. The Board shall duly notice and hold a Board meeting within five (5) full business days of the adjournment of the Member meeting to recall one or more Directors. At the meeting, the Board shall either certify the recall, in which case such Director or Directors shall be recalled effective immediately and shall turn over to the Board within five (5) full business days any and all records and property of the Association in their possession, or shall proceed as set forth in subparagraph (3) below.

(2) If the proposed recall is by an agreement in writing by a majority of all Votes of the Voting Interests, the agreement in writing or a copy thereof shall be served on the Association by certified mail or by personal service in the manner authorized by Florida Statutes Chapter 48 and the Florida Rules of Civil Procedure. The Board shall call a Directors meeting within five (5) full business days after receipt of the agreement in writing and shall either certify the written agreement to recall a Director or Directors of the Board, in which case such Director or Directors shall be recalled immediately and shall turn over to the Board within five (5) full business days, any and all records of the Association in their possession, or proceed as set forth in subparagraph (3) below. The form of written agreement, the Board meeting to certify written agreement, filling vacancies and manner of keeping Board meeting minutes shall be pursuant to Florida Statute Section 718.112(2)(j) and the rules adopted by the Division.

(3) If the Board determines not to certify the written agreement to recall a Director or Directors of the Board, or if the recall is disputed, the Board shall, within five (5) full business days, file with the Division a petition for binding arbitration pursuant to the procedures of Florida Statutes Section 718.1255. For purposes of this subparagraph, the Members who voted at the meeting or executed the agreement in writing shall constitute one party under the petition for arbitration. If the arbitrator certifies the recall as to any Director or Directors of the Board, the recall shall be effective upon service of the final order of arbitration upon the Association. If the Association fails to comply with the order of the arbitrator, the Division may take action pursuant to Florida Statutes Section 718.501. Any Director or Directors so recalled shall deliver to the Board any and all records and property of the Association in their possession within five (5) full business days of the effective date of the recall.

(4) If the Board fails to duly notice and hold a Board meeting within five (5) full business days of service of an agreement in writing or within five (5) full business days of the adjournment of the Member recall meeting, the recall shall be deemed effective and the Directors so recalled shall immediately turn over to the Board any and all records and property of

the Association.

(5) If a vacancy occurs on the Board as a result of a recall and less than a majority of the Directors are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining Directors notwithstanding any provision to the contrary contained in subparagraphs above. When both the Developer and other Unit Owners are entitled to representation on the Board pursuant to Florida Statute Section 718.301, the recall and replacement of Directors and the filling of vacancies as a result of a recall of a majority or less than a majority of Directors shall be pursuant to Florida Statute Section 718.112(2)(j) and the rules adopted by the Division.

E. Transfer of Control.

(1) When Unit Owner's other than the Developer own fifteen percent (15%) or more of the Units in this condominium, the Unit Owner other than the Developer shall be entitled to elect no less than one-third (1/3) of the members of the Board of Directors of the Association. Unit Owners other than the Developer shall be entitled to elect not less than a majority of the members of the Board of Directors of the Association;

a. Three years after fifty percent (50%) of the Units in the condominium have been conveyed to purchasers;

b. Three months after ninety percent (90%) of the Units in the condominium have been conveyed to purchasers;

c. When all of the Units in the condominium have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business;

d. When some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business;

e. Seven (7) years after the recordation of the Declaration of Condominium which ever occurs first.

(2) The Developer shall be entitled to elect at least one member of the Board of Directors of the Association as long as the Developer holds for sale the ordinary course of business at least five percent (5%) of the Units in the Condominium. Following the time that the Developer relinquishes control of the Association, the Developer may exercise the right to Vote any Developer-owned Units in the same manner as any other Unit Owner except for purposes of reacquiring control of the Association or selecting the majority members of the Board of Administration.

F. Term. The term of each Director's service shall extend until the next annual meeting of the Members and subsequently until his successor is duly elected and qualified or until

he is removed in the manner elsewhere provided.

G. Organization Meeting. The organization meeting of a newly-elected Board shall be after their election at such place and time as shall be fixed by the Directors at the meeting at which they were elected, provided that notice is mailed or delivered to the Unit Owners not less than fourteen (14) days prior to the meeting and posted conspicuously on the Condominium Property at least 48 continuous hours preceding the meeting and as otherwise required in Section 718.112(2)(c), Florida Statutes.

H. Regular Meeting. 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 or telegraph, at least three (3) days prior to the day named for such meeting. All meetings of the Board shall be open to all Members, and adequate notice of all Board meetings, regular and special, shall be posted conspicuously on the Condominium Property at least forty-eight (48) continuous hours preceding the Board meeting except in an emergency. The minutes of all meetings of the Board shall be kept in a book available for inspection by Members, or their authorized representatives, at any reasonable time. A Director who is present at a meeting of the Board at which action on any corporate matter is taken shall be presumed to have assented to the action taken, unless he votes against such action or abstains from voting in respect thereto because of an asserted conflict of interest.

I. Special Meetings. Special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of one-half (1/2) of the Directors. Except in an emergency, not less than three (3) days notice of the meeting shall be given to Directors personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting.

J. Member's Participation. All meetings of the Board and any committee thereof at which a quorum of the Members of that committee are present shall be open to all Members. Any Member may tape record or video tape meetings of the Board. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. Tape recording and video taping of the meetings shall be in accordance with any rules adopted by the Division. The Association may adopt reasonable rules and regulations governing the frequency, duration, and manner of Member statements. Notice of all meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the Condominium Property at least forty-eight (48) continuous hours preceding the meeting, except in an emergency. However, written notice of any meeting at which non-emergency Special Assessments (a "Special Assessment" is any assessment levied against Members other than those required by the annual budget) or at which amendments regarding Unit use will be proposed, discussed or approved, shall be mailed or delivered to Members, and posted conspicuously on the Condominium Property not less than fourteen (14) continuous days prior to the meeting. Evidence of fourteen (14) continuous days notice shall be made by an affidavit executed by the Secretary and filed among the official records of the Association. Upon notice to Members, the Board shall, by duly adopted rule, designate a specific location on the Condominium Property upon which all notices of the Board meetings shall be posted. Notice of any meeting at which Assessments (an "Assessment" being the share of funds required from Members for payment of common expenses)

are to be considered for any reason shall specifically contain a statement that Assessments will be considered and the nature of such Assessments. The minutes of all Board meetings shall be kept in a book available for inspection by Members, or their authorized representatives, at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years. Notwithstanding any other law, the requirement that Board meetings and committee meetings be open to the Unit Owners is inapplicable to meetings between the Board or a committee and the Association's attorney, with respect to proposed or pending litigation, when the meeting is held for the purpose of seeking or rendering legal advice.

K. Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

L. Quorum. A quorum at Directors' meetings shall consist of a majority of the 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 or these Bylaws.

M. Adjourned Meetings. If, at any meeting of the Board there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business that might have been transacted at the meeting as originally called may be transacted, provided, however, notice of any adjourned meeting shall be posted conspicuously on the Condominium Property at least 48 continuous hours in advance, except in an emergency.

N. Voting. A Director who is present at a meeting of the Board at which action on any corporate matter is taken shall be presumed to have assented to the action taken, unless he votes against such action or abstains from voting in respect thereto because of an asserted conflict of interest. Directors may not vote by proxy or by secret ballot at Board Meetings. A vote or abstention for each Director present shall be recorded in the minutes.

O. Written Agreement or Disagreement. A director or member of a committee may submit in writing his or her agreement or disagreement with any action taken at a meeting that such director or member of a committee did not attend. This agreement or disagreement shall not be used as a vote for or against the action taken and may not be used for the purpose of creating a quorum.

P. Chairman. The presiding Officer of Directors' meetings shall be the President; if the President is absent, the Vice President shall preside. In the absence of both Officers, the Directors present shall designate one of their number to preside.

Q. Order of Business. The order of business at Directors' meeting shall be

- (1) Calling of roll.
- (2) Proof of due notice of meeting.
- (3) Reading and disposal of any unapproved minutes.
- (4) Reports of Officers and committees.

- (5) Election of Officers.
- (6) Unfinished business.
- (7) New business.
- (8) Adjournment.

R. Directors' Fee. Directors shall not be paid a fee.

S. Advisory Committee. The Directors of the Association may select an advisory committee consisting of three (3) Members of the Association. The Advisory Committee shall have no power or authority but shall offer the Directors suggestions and advice regarding the management of the affairs of the Association. The Advisory Committee shall serve at the pleasure of the Directors.

T. Powers. All of the powers and duties of the Association existing under the Condominium Act, Declaration, the Articles and these Bylaws shall be exercised exclusively by the Board, the agents, contractors, or employees of the Board, subject only to approval by Members when such is specifically required.

4. Officers. The Officers of the Association shall be the President, Secretary, and Treasurer, all of whom shall be Directors.

A. Election and Removal. The Officers of the Association shall be elected by the Board at its first meeting following the annual meeting of the Members of the Association and shall serve at the pleasure of the Board unless they shall be removed by a majority of the Board at any regular or special meeting of the Board duly called.

B. Resignation. Any Officer may resign as Officer at any time. Such resignation shall be made in writing, submitted to the Secretary and shall take effect as is specified in the instrument. Acceptance of resignation shall not be required to make it effective.

C. Vacancy. Any vacancy resulting from the removal or resignation of an Officer as herein provided may be filled by the Board at the same meeting.

D. President. The President shall be the chief Officer of the Association. He shall have all of the powers and duties usually vested in the office of the president of a condominium association, including but not limited to the power to appoint committees from among the Members from time to time, as he, in his discretion, may determine appropriate, to assist in the conduct of the affairs of the Association.

E. Secretary. The Secretary shall keep the minutes of all proceedings of the Directors and the Members. He shall attend to the giving and serving of all notice to the Members and Directors and other notices required by law. He shall have custody of the seal of the Association, and affix it to instruments requiring a seal when duly signed. He shall perform all of the duties incident to the office of Secretary of the Association as may be required by the Directors or the President.

F. Treasurer. The Treasurer shall have custody of all funds and property of the Association and shall maintain the financial records of the Association in accordance with good accounting practices, and shall perform all other duties incident to the office of Treasurer of the Association and as may be required by the Directors or the President.

G. Compensation. The compensation of the employees of the Association shall be fixed by the Directors. The provision that Directors' shall not be paid a fee shall not preclude the Board from employing a Director as an employee of the Association nor preclude the contracting with a Director for the management of the Condominium.

5. Indemnification. Every Director and every Officer and committee member of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees through all trial and appellate levels, reasonably incurred by or imposed in connection with any proceeding, arbitration, or settlement to which such person may be a party, or in which they may become involved, by reason of being or having been a Director, Officer, or committee member of the Association. Notwithstanding the foregoing, in the event of a voluntary settlement, the indemnification provisions herein shall not be automatic and shall apply only when the Board approves such settlement. Notwithstanding anything contained herein to the contrary, in instances where the Director, Officer, or committee member admits or is adjudged guilty of willful misfeasance or nonfeasance in the performance of their duties, the indemnification provisions contained herein shall not apply. Otherwise, the foregoing right of indemnification shall be in addition to and not exclusive of any and all rights of indemnification to which such Director, Officer or committee member may be entitled by common law or statute.

6. Fiscal Management. The provisions for fiscal management of the Association set forth in the Declaration and the Articles shall be supplemented by the following provisions:

A. Board Adoption of Budget. The Board shall adopt a budget for the Common Expenses of the Association in advance of each fiscal year at a special meeting of the Board called for that purpose at least forty-five (45) days before the end of each fiscal year.

(1) Any meeting at which a proposed annual budget of an Association will be considered by the board or unit owners shall be open to all unit owners. At least 14 days prior to such a meeting, the board shall hand deliver to each unit owner, or mail 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.

(2) If a board adopts in any fiscal year an annual budget which requires assessments against unit owners which exceed 115 percent of assessments for the preceding fiscal year, the board shall conduct a special meeting of the unit owners to consider a substitute budget if the board receives, within 21 days after adoption of the annual budget, a written request for a special meeting from at least 10 percent of all voting interests. The special meeting shall be conducted within 60 days after adoption of the annual budget. At least 14 days prior to such special meeting, the board shall hand deliver to each unit owner, or mail to each unit owner at the address last

furnished to the Association, a notice of the meeting. An officer or manager of the Association, or other person providing notice of such meeting shall execute an affidavit evidencing compliance with this notice requirement and such affidavit shall be filed among the official records of the Association. Unit owners may consider and adopt a substitute budget at the special meeting. A substitute budget is adopted if approved by a majority of all voting interests unless the bylaws require adoption by a greater percentage of 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.

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

B. Budget Requirements. The proposed annual budget of Common Expenses shall be detailed and shall show the amount budgeted by accounts and expense classifications, including, when applicable, but not limited to:

- (1) Administration of the Association
- (2) Management fees
- (3) Maintenance
- (4) Rent for recreational and other commonly used facilities
- (5) Taxes on Association property
- (6) Taxes on leased areas
- (7) Insurance
- (8) Security provisions
- (9) Other expenses
- (10) Operating capital
- (11) Fees payable to the Division

However, if after turnover of control of the Association to the Unit Owners, any of the expenses listed herein are not applicable, they need not be listed.

C. Reserves. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not 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 \$10,000.00. The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement costs or deferred maintenance expense of each reserve item. The amount of the current year contribution to each reserve component shall be the sum of the following two (2) calculations:

- (i) The total amount necessary, if any, to bring a negative component balance to zero; and

(ii) The total estimated deferred maintenance expense or estimated replacement cost of the reserve component less the estimated balance of the reserve component as of the beginning of the period for which the budget will be in effect. The remainder, if greater than zero, shall be divided by the estimated remaining useful life of the component. The Association may adjust replacement reserve Assessments annually to take into account any changes in estimates and deferred maintenance performed during the year and may consider factors such as inflation and earnings on invested funds. This provision shall not apply to budgets in which the Members of the Association have, by a majority of Votes at a duly called meeting of the Association, determined for a fiscal year to provide no reserves or reserves less adequate than are required by this and other provisions of these Bylaws. However, prior to turnover of control of the Association by the Developer to Members other than the Developer, the Developer may vote to waive the reserves or reduce the funding of reserves for the first two fiscal years of operation of the Association beginning with the fiscal year in which the Declaration is recorded, with the vote taken each fiscal year and effective for only one annual budget. The Developer may not unilaterally waive or reduce fees. If a meeting of Members has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves, as included in the budget, shall go into effect.

Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall be used only for authorized reserve expenditures, unless their use for other purposes is approved in advance by a majority of the Voting Interests voting at a duly called meeting of the Association. Prior to turnover of control of the Association by the Developer to Members other than the Developer pursuant to Florida Statutes Section 718.301, the Developer-controlled Association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all non-Developer Voting Interests, voting in person or by limited proxy at a duly called meeting of the Association. Reserves included in the adopted budget are common expenses and must be fully funded unless properly waived or reduced as provided herein. Reserves shall be funded in at least the same frequency that assessments are due from Unit Owners.

Reserves that are not required by Florida Statute Section 718.112(2)(f), are not required to be based on any specific formula.

D. Assessments. Assessments against the Members for their shares of the items of the budget shall be made for the calendar year annually at least forty-five (45) days before the end of the fiscal year. Such Assessments shall be due in twelve (12) equal monthly installments on the first day of each month of the year for which the installments are made. If an annual Assessment is not made as required, an Assessment shall be presumed to have been made in the amount of the last prior Assessment and four quarterly installments on such Assessment shall be due upon each installment payment date until changed by an amended Assessment. A Unit Owner may not be excused from payment of the Unit Owner's share of common expenses unless all other unit owners are likewise proportionately excused from payment, except a developer who has guaranteed assessments pursuant to Florida Statute Section 718.116(9).

E. Default. If a Member shall be in default in the payment of any Assessment or installment thereon, the Board may take all or any of the following actions:

- (1) Record a lien and accelerate the remaining installments of the Assessment due for the remainder of the budget year in which the claim is filed;
- (2) Charge a late fee;
- (3) Bring an action to foreclose a recorded lien; and
- (4) Bring an action for personal judgment for the amounts due, all as set forth in the Declaration.

F. Budget Restraints on Developer. As long as the Developer is in control of the Board, the Board shall not impose an Assessment for any year greater than one hundred fifteen percent (115%) of the previous year's Assessment without approval of a majority of all Voting Interest.

G. Assessments for Emergencies. Should the Association through its Directors at any time determine that the Assessments made are not sufficient to pay the Common Expenses, or in the event of emergencies, the Board shall have the authority to levy and collect additional Assessments to meet such needs of the Association. The specific purpose or purposes of any Special Assessments approved in accordance with the Declaration shall be set forth in a written notice of such Special Assessment sent or delivered to each Member. The funds collected pursuant to a Special Assessment shall be used only for the specific purpose or purposes set forth in such notice, or returned to the Members. However, upon completion of such specific purpose or purposes, any excess funds shall be considered Common Surplus, and may, at the discretion of the Board, either be returned to the Members or applied as a credit toward future Assessments.

H. The Depository. The depository of the Association shall be such bank, banks or federally insured savings and loan associations as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

I. Commingling. All funds shall be maintained separately in the Association's name. Reserve and operating funds of the Association shall not be commingled, unless combined for investment purposes. Funds commingled for investment purposes must be accounted for separately, and the combined account balance may not, at any time, be less than the amount identified as reserve funds in the combined account. No manager or business entity required to be licensed or registered under Florida Statutes Section 468.432 and no agent, employee, Officer or Director of the Association shall commingle any Association funds with his funds or with the funds of any other condominium association or community association as defined in Florida Statutes Section 468.431.

J. Fidelity Bonds. The Association shall obtain and maintain adequate fidelity bonding on all persons who control or disburse funds of the Association. As used in this subparagraph, the term "persons who control or disburse funds of the Association" includes, but is not limited to, those individuals authorized to sign checks, and the President, Vice-President, and Secretary-Treasurer of the Association. The Association shall bear the cost of bonding.

K. Financial Report. Within ninety (90) days after the end of the fiscal year, the Association shall prepare and complete, or cause to be prepared and completed by a third party, a financial report for the preceding fiscal year of actual receipts and expenditures. Within 21 days after the financial report is completed or received by the Association from the third party, the Association shall mail to each Unit Owner at the address last furnished to the Association by the Unit Owner, or hand deliver to each Unit Owner, a copy of the financial report or a notice that a copy of the financial report will be mailed or hand delivered to the Unit Owner, without charge, upon receipt of a written request from the Unit Owner. The report shall show the amounts of receipts by accounts and receipt classifications and shall show the amounts of expenses by accounts and expense classifications including, if applicable, but not limited to, the following:

- (a) Cost for security.
- (b) Professional and management fees and expenses.
- (c) Taxes.
- (d) Costs for recreational facilities.
- (e) Expenses for refuse collection and utility services.
- (f) Expenses for lawn care.
- (g) Costs for building maintenance and repair.
- (h) Insurance costs.
- (i) Administrative and salary expenses; and
- (j) Reserves for capital expenditures, deferred maintenance, and any other category for which the Association maintains a reserve account or accounts.

Prior to turnover, all Unit Owners, including the Developer, may vote on issues relating to the preparation of financial reports for the first two (2) fiscal years of the Association's operations, beginning with the fiscal year in which the Declaration is recorded. Thereafter, all Unit Owners, except the Developer, may vote on such issues until control is turned over to the Association by the Developer. The minutes of the Association shall reflect the number of votes cast by the membership to waive the requirement for audited, reviewed or compiled financial statements and the type of financial reporting that the Association will be preparing and disseminating to the membership. The Association may prepare or cause to be prepared, without a meeting of or approval by the Unit Owners, a compiled, reviewed or audited financial statement.

7. Association Records. The Association shall maintain a copy of each of the following, where applicable, which shall constitute the official records of the Association:

- A. The plans, permits, warranties, and other items provided by the Developer pursuant to Florida Statutes Section 718.301(4);
- B. A photocopy of the recorded Declaration and all amendments thereto;
- C. A photocopy of the recorded Bylaws and all amendments thereto;
- D. A certified copy of the Articles and all amendments thereto;

- E. A copy of the current rules and regulations of the Association;
- F. A book or books containing the minutes of all meetings of the Association, the Board, and Members, which minutes shall be retained for a period not less than 7 years;
- G. A current roster of all Members, their mailing addresses, Unit identifications, voting certifications, and if known, telephone numbers;
- H. All current insurance policies of the Association;
- I. A current copy of any management agreement, lease, or other contract to which the Association is a party or under which the Association or the Members have an obligation or responsibility;
- J. Bills of sale or transfer of all property owned by the Association;
- K. Accounting records for the Association, according to good accounting practices. All accounting records shall be maintained for a period of not less than 7 years. The accounting records shall include, but are not limited to:
 - (1) Accurate, itemized, and detailed records of all receipts and expenditures.
 - (2) A current account and a monthly, bi-monthly, or quarterly statement of the account for each Unit designating the name of the Member, the due date, and amount of each Assessment, the amount paid upon the account, and the balance due.
 - (3) All audits, reviews, accounting statements, and financial reports of the Association or condominium.
 - (4) All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of 1 year;
- L. Voting proxies, which shall be maintained for a period of 1 year from the date of the meeting for which the proxy was given.
- M. All rental records where the Association is acting as agent for the rental of the Condominium Units.
- N. A copy of the current Question and Answer Sheet as described in Florida Statutes Section 718.504.
- O. Copies of the year-end financial information required by Florida Statutes Section 718.111.
- P. All other records of the Association not specifically included in the

foregoing which are related to the operation of the Association.

The official records of the Association shall be maintained within the State. The records of the Association shall be made available to a Member within five (5) working days after receipt of written request by the Board or its designee. This paragraph may be complied with by having a copy of the official records of the Association available for inspection or copying on the Condominium Property.

The official records of the Association shall be open to inspection by any Member or the authorized representative of such Member, at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the Member. The Association may adopt reasonable rules and regulations regarding the frequency, time, location, notice and manner of record inspections and copying. The Association shall provide the records within five (5) working days after receipt of a written request therefore.

The Association shall maintain an adequate number of copies of the Declaration, the Articles, these Bylaws, and rules and regulations and all amendments to each of the foregoing, as well as the Question and Answer Sheet provided for in Florida Statutes Section 718.504 on the Condominium Property to insure their availability to Members and prospective purchasers, and may charge its actual cost for preparing and furnishing these documents to those requesting the same.

8. Question and Answer Sheet. The Association shall prepare a Question and Answer Sheet as described in Florida Statutes Section 718.504 and shall update it annually.

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 Bylaws.

10. Mandatory Non-binding Arbitration and Mediation.

A. Definition. As used here, the term "dispute" means any disagreement between two or more parties that involves:

(1) The authority of the Board, under the Condominium Act or Declaration, the Articles, Bylaws or rules and regulations to:

- (a) Require any Member to take any action, or not to take any action, involving that Owner's Unit or the appurtenances thereto.
- (b) Alter or add to a Common Element.

(2) The failure of a governing body, when required by the Condominium Act or an Association document, to:

- (a) Properly conduct elections.
- (b) Give adequate notice of meetings or other actions.

- (c) Properly conduct meetings.
- (d) Allow inspection of books and records.

"Dispute" does not include any disagreement that primarily involves title to any Unit or Common Element; the interpretation or enforcement of any warranty; or the levy of a fee or Assessment, or the collection of an Assessment levied against a party; the eviction or other removal of a tenant from a Unit; alleged breaches of fiduciary duty by one or more Directors; or claims for damages to a Unit based upon the alleged failure of the Association to maintain the Common Elements or Condominium Property.

B. Prior to the institution of any Court litigation, the parties to a Dispute shall petition the Division for Nonbinding Arbitration. Arbitration shall be conducted according to the rules promulgated by the Division in accordance with Florida Statutes Section 718.1255. If all parties agree, the dispute must be referred to mediation or the arbitrator may refer a dispute to mediation at any time, which mediation process shall be conducted in accordance with the Florida Rules of Civil Procedure rules promulgated by the Division and Florida Statute Section 718.1255.

11. Unit Owner Inquiry. When a Unit Owner files a written inquiry by certified mail with the Board, the Board shall respond in writing to the Unit Owner within thirty (30) days of receipt of the inquiry. The Board's response shall either give a substantive response to the inquirer, notify the inquirer that a legal opinion has been requested, or notify the inquirer that advice has been requested from the Division. If the Board requests advice from the Division, the Board shall, within ten (10) days of its receipt of the advice, provide in writing a substantive response to the inquiry. If a legal opinion is requested, the Board shall, within sixty (60) days after the receipt of the inquiry, provide in writing a substantive response to the inquiry. The failure to provide a substantive response to the inquiry as provided herein precludes the Board from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding or arbitration arising out of the inquiry. The Association may, through its Board, adopt reasonable rules and regulations regarding the frequency and manner of responding to Unit Owner inquiries, one of which may be that the Association is only obligated to respond to one (1) written inquiry per Unit in any given thirty-day period. In such a case, any additional inquiry or inquiries must be responded to in the subsequent thirty-day period, or periods, as applicable.

12. Sale or Transfer of Unit. Prior to the sale or transfer of any interest in a Condominium Parcel to any person other than the transferor's spouse, the Board shall be given notice of the proposed sale or transfer in accordance with the provisions of the Declaration.

13. Certificate of Compliance. A Certificate of Compliance from a licensed electrical contractor or electrician may be accepted by the Board as evidence of compliance of the condominium units to the applicable Fire and Life Safety Code.

14. Hurricane Shutter Specifications. The Board shall adopt hurricane shutter specifications for each building operated by the Association which shall include color, style and other factors deemed relevant by the Board. All specifications adopted by the Board shall comply with the applicable Building Code. Notwithstanding any provision to the contrary in the

Declaration, the Articles, these Bylaws and rules and regulations adopted by the Board, if any, if approval is required by them, a Board shall not refuse to approve the installation or replacement of hurricane shutters conforming to the specifications adopted by the Board. The Board may, subject to the provisions of Florida Statutes Section 718.3026, and the approval of a majority of Voting Interests of the Association, install hurricane shutters and may maintain, repair or replace such approved hurricane shutters, whether on or within Common Elements, Limited Common Elements, Units, or Association property. However, where laminated glass or window film architecturally designed to function as hurricane protection which complies with the applicable building code has been installed, the Board may not install hurricane shutters. The Board may operate shutters installed pursuant to this provision without permission of the Members only where such operation is necessary to preserve and protect the Condominium Property and Association property. The installation, replacement, operation, repair and maintenance of such shutters in accordance with the procedures set forth herein shall not be deemed a material alteration to the Common Elements or Association property within the meaning of this subparagraph.

15. Enforcement.

A. Legal Action. Each Member, tenant, and other invitee shall comply with the Declaration, the Articles, these Bylaws, the rules and regulations enacted pursuant to these Bylaws, if any, and the provisions thereof shall be deemed expressly incorporated into any lease of a Unit. The Association shall have the right to evict a tenant or remove any guest or invitee for failure to comply. Actions for damages or for injunctive relief, or both, for failure to comply with these provisions may be brought by the Association or by a Member against:

- (a) The Association.
- (b) A Member.
- (c) Directors designated by the Developer, for actions taken by them prior to the time control of the Association is assumed by Members other than the Developer.
- (d) Any Director who willfully and knowingly fails to comply with these provisions.
- (e) Any tenant leasing a Unit, and any other invitee occupying a Unit.

The prevailing party in any such action shall be entitled to recover its reasonable attorney's fees. A Member, prevailing in an action against the Association, in addition to recovering his attorney's fees, may recover additional amounts as determined by the Court to be necessary to reimburse the Member for his share of Assessments levied by the Association to fund its expenses of the litigation.

B. Fines. In addition, the Association may levy reasonable fines against a Unit for the failure of the Unit Owner, or its occupant, licensee, or invitee, to comply with any provisions of the Declaration, the Bylaws, or the rules and regulations of the Association adopted by the Board, if any. No fine will become a lien against the Unit. No fine may exceed the maximum permitted under the Condominium Act per violation; provided, however, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity

for hearing, provided that no such fine shall in the aggregate exceed the maximum permitted under the Condominium Act. No fine may be levied except after giving reasonable notice and opportunity for a hearing to the Member, and, if applicable, its licensee or invitee. The hearing must be held before a committee of other Members. If the committee does not agree with the fine, the fine may not be levied. These provisions shall not apply to unoccupied units.

C. No Waiver. The failure of the Association or any Member to enforce any covenant, restriction or other provision of the Condominium Act, the Declaration, the Articles, these Bylaws, or the rules and regulations enacted pursuant to these Bylaws, if any, shall not constitute a waiver of the right to do so thereafter.

16. Contracts for Products and Services. All contracts, as further described herein, or any contract that is not to be fully performed within one year from the making thereof, for the purchase, lease, or renting of materials or equipment to be used by the Association in accomplishing its purposes under the Condominium Act, and all contracts for the provision of services, shall be in writing. Where a contract for purchase, lease, or renting of materials or equipment, or for the provision of services, requires payment by the Association the aggregate exceed 5% of the total annual budget of the Association including reserves, the Association shall obtain competitive bids for the materials, equipment or services. Nothing contained herein shall be construed to require the Association to accept the lowest bid.

Notwithstanding the foregoing, contracts with employees of the Association, and contracts for attorney, accountant, architect, community association managers, engineering and landscape architect services shall not be subject to the provisions of this paragraph. Provided further, that nothing contained herein is intended to limit the ability of the Association to obtain needed products and services in an emergency.

This Paragraph 16 shall not apply if the business entity with which the Association desires to enter into a contract is the only source of supply within Charlotte County, Florida. Further, nothing contained herein shall excuse a party contracting to provide maintenance or management services from compliance with Florida Statutes Section 718.3025.

17. Amendments. Except as elsewhere provided otherwise, these Bylaws may be amended in the following manner:

A. Notice. Notice in writing of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered. The proposal to amend existing Bylaws shall contain the full text of the Bylaws 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 Bylaws. See Bylaw ____ for present text." Nonmaterial errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

B. Resolution and Adoption. A resolution for the adoption of a proposed amendment may be proposed by either the Board or by not less than fifty percent (50%) of the Voting Interests of the Association. An amendment must be approved by:

(1) Not less than a majority of the Votes of the Voting Interests of the Association voting in person or by proxy at a meeting of the members of the Association.

(2) Until the first election of Directors, only by all of the Directors provided the amendment does not increase the number of Units nor alter the boundaries of the Common Elements.

C. Proviso. Provided, however, that no amendment shall discriminate against any Member nor against any Unit or class or group of Units, unless the Members so affected shall consent.

D. Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the President or Vice President of the Association with the formalities of a deed. The amendment shall be effective when such certificate and copy of the amendment is set forth in or annexed to a recorded amendment to the Declaration.

18. All provisions of Section 718.112 (a) through (m), Florida Statutes, are deemed to be included in these Bylaws.

The foregoing were adopted as the Bylaws of WATER GARDENS ASSOCIATION, INC., a Corporation Not-For-Profit under the laws of the State of Florida, at the first meeting of the Board of Directors of Water Gardens Condominium Association, Inc, on this 24th day of April, 2007.

APPROVED:

[Signature]
President

n/a
Secretary

WATER GARDENS, A CONDOMINIUM

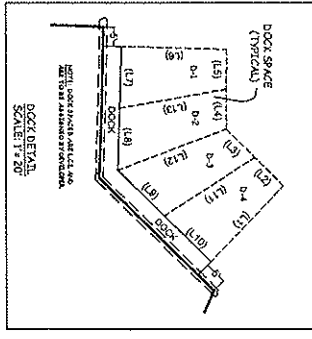
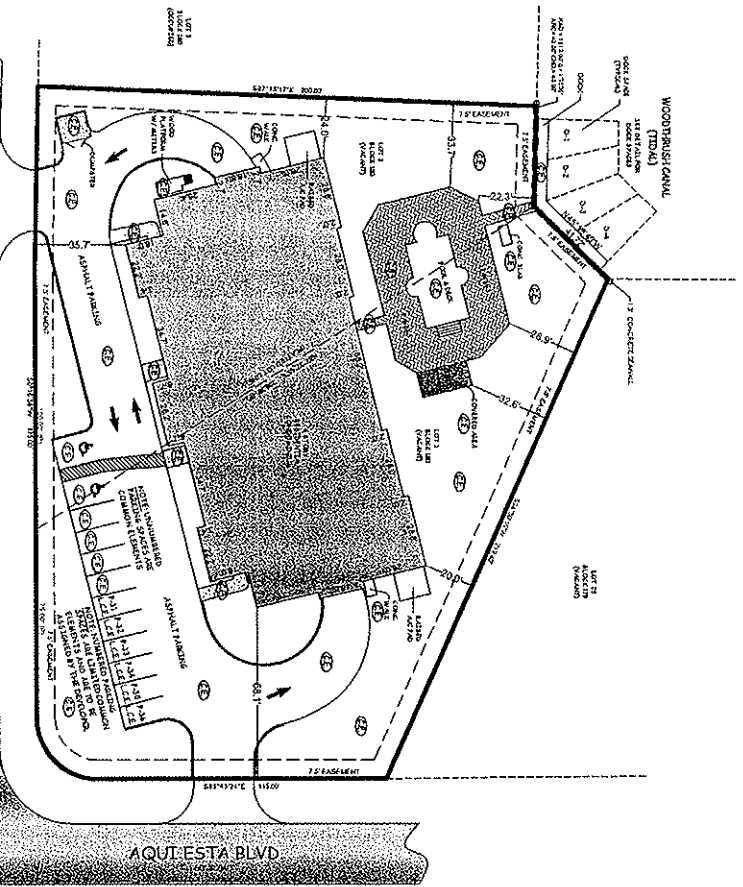
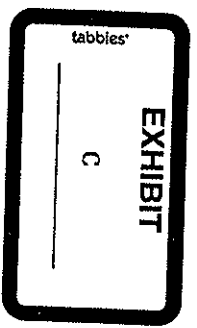
A RESIDENTIAL CONDOMINIUM

AS-BUILT EXHIBIT "C" SITE PLAN

CONDOMINIUM BOOK _____ PAGE _____

NORTH

0 15 30 45 60
GEOMETRIC SCALE
1 inch = 30 ft



| LINE | BEARING | DISTANCE |
|------|-----------------|----------|
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CONSTRUCTION NOTES:

- 1) ALL DIMENSIONS ARE BASED ON SURVEY.
- 2) DIMENSIONS ARE SHOWN TO THE CENTER OF THE MEMBER UNLESS NOTED OTHERWISE.
- 3) ALL DIMENSIONS ARE SHOWN TO THE NEAREST 1/8" UNLESS NOTED OTHERWISE.
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SURVEYING CERTIFICATE:

THIS CERTIFICATE, MADE THIS 1st DAY OF APRIL 2007, BY THE UNDERSIGNED PROFESSIONAL SURVEYOR AND MEASURER, ATTESTS TO THE ACCURACY OF THE SURVEY AND THE CORRECTNESS OF THE DIMENSIONS AND BEARINGS THEREON, AND THAT THE SAME WERE OBTAINED BY THE USE OF THE MOST ACCURATE METHODS AND INSTRUMENTS IN USE AT THE TIME OF THE SURVEY, AND THAT THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE CONSTITUTION AND LAWS OF THE STATE OF FLORIDA, AND IN ACCORDANCE WITH THE PROVISIONS OF THE PROFESSIONAL SURVEYOR AND MEASURER ACT, CHAPTER 461, F.S., AND THE RULES AND REGULATIONS OF THE BOARD OF PROFESSIONAL SURVEYORS AND MEASURERS, AS ADOPTED BY THE BOARD, AND THAT THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE PROFESSIONAL SURVEYOR AND MEASURER ACT, CHAPTER 461, F.S., AND THE RULES AND REGULATIONS OF THE BOARD OF PROFESSIONAL SURVEYORS AND MEASURERS, AS ADOPTED BY THE BOARD.

THE UNDERSIGNED HEREBY CERTIFIES THE FOREGOING SURVEY AND DESCRIPTIONS SHOWN HEREON WERE PREPARED IN ACCORDANCE WITH THE MINIMUM TECHNICAL STANDARDS FOR LAND SURVEYING IN THE STATE OF FLORIDA, AND THAT THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE PROFESSIONAL SURVEYOR AND MEASURER ACT, CHAPTER 461, F.S., AND THE RULES AND REGULATIONS OF THE BOARD OF PROFESSIONAL SURVEYORS AND MEASURERS, AS ADOPTED BY THE BOARD.

JOHN W. BERRY, PROFESSIONAL SURVEYOR AND MEASURER, STATE OF FLORIDA NO. 0144

JOB # 04-11123

THE PHOENIX SURVEYING COMPANY, INC.
CONSULTANTS • SURVEYORS • PLANNERS
3750 FOREST BLVD., SUITE B, NORCROSS, GA. 31444
PH. (404) 499-4811 FAX. (404) 837-3144

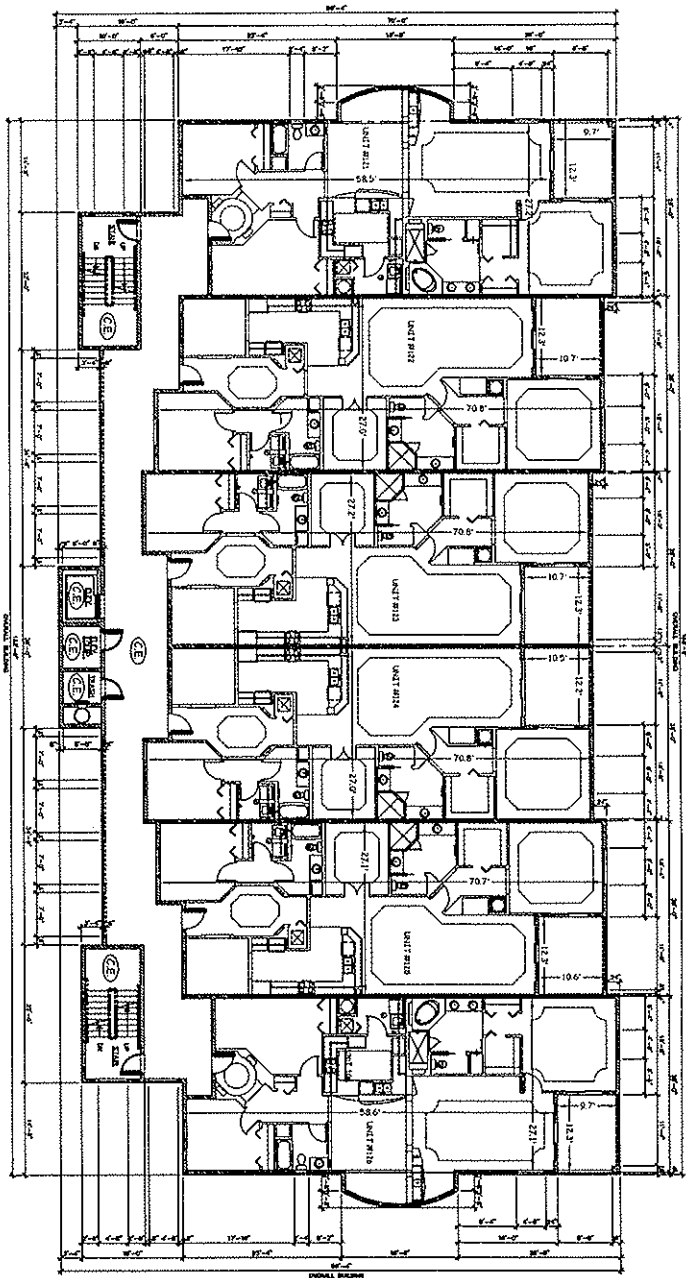
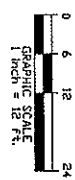
SHEET 1 OF 8

WATER GARDENS, A CONDOMINIUM

A RESIDENTIAL CONDOMINIUM

(AS-BUILT)
EXHIBIT "C"
2ND FLOOR PLAN

CONDOMINIUM BOOK _____ PAGE _____



2ND FLOOR PLAN

UNIT NUMBER ALLOCATION
(PART OF BUILDING)

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| 4th FLOOR | UNIT #102 | UNIT #103 | UNIT #104 | UNIT #105 | UNIT #106 | UNIT #107 | UNIT #108 | UNIT #109 | UNIT #110 | UNIT #111 | UNIT #112 | UNIT #113 | UNIT #114 | UNIT #115 | UNIT #116 | UNIT #117 | UNIT #118 |
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- SHOWING NOTATIONS:
- 1) DIMENSIONS ARE BASED ON 1/4" = 1'-0" SCALE UNLESS OTHERWISE NOTED.
 - 2) PROPOSED DIMENSIONS ARE SHOWN TO THE NEAREST ONE-HALF INCH (0.500) OR ONE INCH (1.000) UNLESS OTHERWISE NOTED.
 - 3) AS-BUILT DIMENSIONS ARE SHOWN TO THE NEAREST ONE-HALF INCH (0.500) OR ONE INCH (1.000) UNLESS OTHERWISE NOTED.
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SHEET 4 OF 8

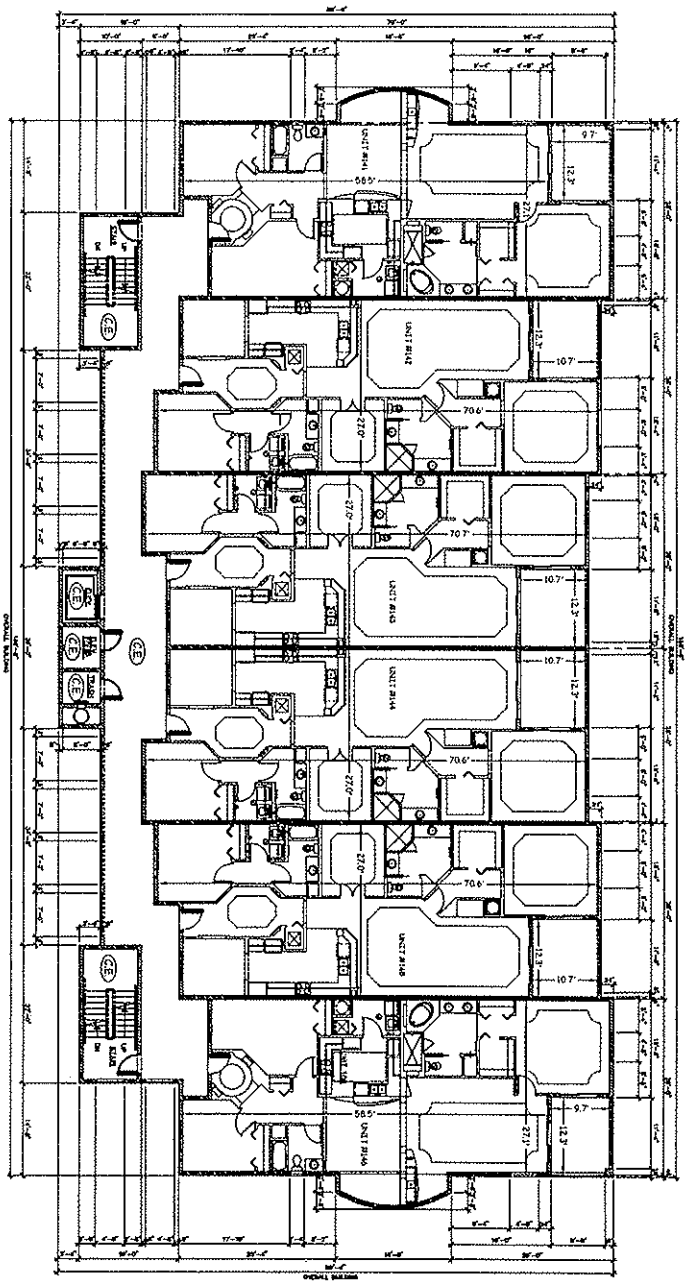
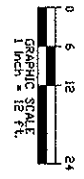
THE PHOENIX SURVEYING COMPANY, INC.
CONSULTANTS * SURVEYORS * PLANNERS
13410 TIDEWAT BLVD. SUITE 9, NORTH CHANDLER, A. 13418
PH. (481) 534-4501 FAX. (481) 877-8148

WATER GARDENS, A CONDOMINIUM

A RESIDENTIAL CONDOMINIUM

(AS-BUILT)
EXHIBIT "C"
4TH FLOOR PLAN

CONDOMINIUM BOOK _____ PAGE _____



4th FLOOR PLAN

UNIT DRAWING ALTERATION
(PART OF RECORD)

- SUPRENSORS NOTATIONS:
- 1) ELEVATIONS SHOWING ARE BASED ON 2.00
 - 2) DIMENSIONS ARE SHOWN TO THE NEAREST ONE-EIGHTH INCH
 - 3) DIMENSIONS ARE SHOWN TO THE NEAREST ONE-EIGHTH INCH
 - 4) L.C.E. DENOTES LIMITED COMMON ELEMENTS
 - 5) C.E. DENOTES COMMON ELEMENTS
 - 6) SEE FLOOR PLANS FOR TYPICAL INTERIOR WALL DIVISIONS, DECLARATION OF CONDOMINIUM
 - 7) SEE FLOOR PLANS FOR TYPICAL INTERIOR WALL DIVISIONS, DECLARATION OF CONDOMINIUM
 - 8) FOR PARTIAL DEFINITION OF ELEMENTS REFER TO THE DECLARATION OF CONDOMINIUM
 - 9) EQUIPMENT AND SYSTEMS ARE SHOWN AS INSTALLED AND IS LOCATED OUTSIDE OF THE BOUNDARIES OF THAT UNIT ARE CONSIDERED LIMITED COMMON ELEMENTS TO THE UNIT IT SERVICES

| FLOOR | UNIT # | UNIT # | UNIT # | UNIT # | UNIT # | UNIT # | UNIT # | UNIT # | UNIT # |
|--------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| 4th FLOOR | UNIT #407 | UNIT #408 | UNIT #409 | UNIT #410 | UNIT #411 | UNIT #412 | UNIT #413 | UNIT #414 | UNIT #415 |
| 3rd FLOOR | UNIT #307 | UNIT #308 | UNIT #309 | UNIT #310 | UNIT #311 | UNIT #312 | UNIT #313 | UNIT #314 | UNIT #315 |
| 2nd FLOOR | UNIT #207 | UNIT #208 | UNIT #209 | UNIT #210 | UNIT #211 | UNIT #212 | UNIT #213 | UNIT #214 | UNIT #215 |
| 1st FLOOR | UNIT #107 | UNIT #108 | UNIT #109 | UNIT #110 | UNIT #111 | UNIT #112 | UNIT #113 | UNIT #114 | UNIT #115 |
| GROUND FLOOR | | | | | | | | | |

NOTE: EACH SHEET OF THIS PLAT IS AN INTERIM, PART THEREOF.

JOB # 04-11123

THE PHOENIX SURVEYING COMPANY, INC.
CONSULTANTS • SURVEYORS • PLANNERS

17440 TORREO BLVD. SUITE B, NORTH COLLIER, FL 33944
PH. (941) 439-1401 FAX. (941) 567-6114

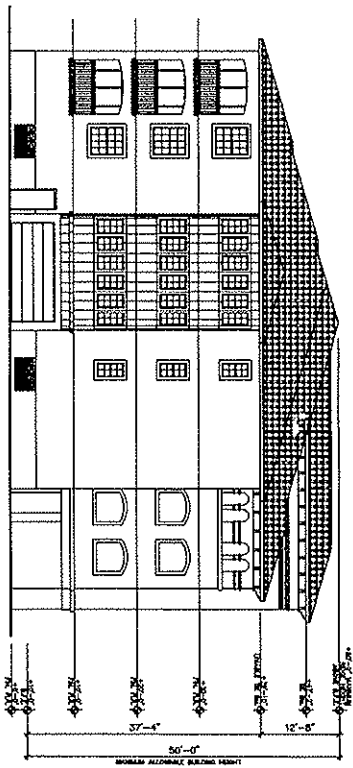
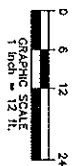
SHEET 6 OF 8

WATER GARDENS, A CONDOMINIUM

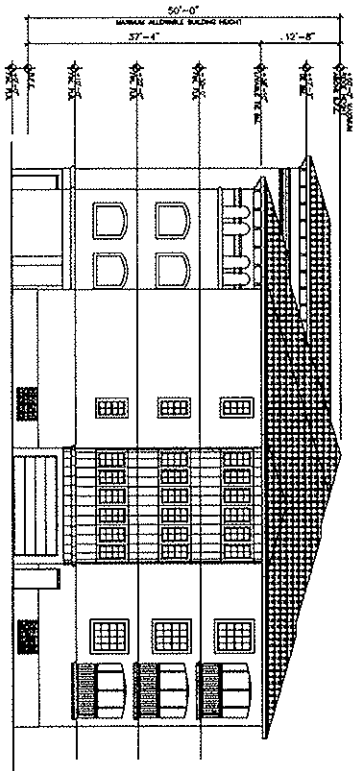
A RESIDENTIAL CONDOMINIUM

EXHIBIT "C" LEFT-RIGHT SIDE ELEVATION PLAN

CONDOMINIUM BOOK _____ PAGE _____



LEFT SIDE ELEVATION



RIGHT SIDE ELEVATION

SEE FLOOR PLAN FOR UNIT PLACEMENT

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|-------------|-----------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| GRADE FLOOR | UNIT R101 | UNIT R102 | UNIT R103 | UNIT R104 | UNIT R105 | UNIT R106 | UNIT R107 | UNIT R108 | UNIT R109 | UNIT R110 | UNIT R111 | UNIT R112 | UNIT R113 | UNIT R114 | UNIT R115 | UNIT R116 | UNIT R117 | UNIT R118 | UNIT R119 | UNIT R120 | UNIT R121 | UNIT R122 | UNIT R123 | UNIT R124 | UNIT R125 | UNIT R126 | UNIT R127 | UNIT R128 | UNIT R129 | UNIT R130 | UNIT R131 | UNIT R132 | UNIT R133 | UNIT R134 | UNIT R135 | UNIT R136 | UNIT R137 | UNIT R138 | UNIT R139 | UNIT R140 | UNIT R141 | UNIT R142 | UNIT R143 | UNIT R144 | UNIT R145 | UNIT R146 | UNIT R147 | UNIT R148 | UNIT R149 | UNIT R150 | UNIT R151 | UNIT R152 | UNIT R153 | UNIT R154 | UNIT R155 | UNIT R156 | UNIT R157 | UNIT R158 | UNIT R159 | UNIT R160 | UNIT R161 | UNIT R162 | UNIT R163 | UNIT R164 | UNIT R165 | UNIT R166 | UNIT R167 | UNIT R168 | UNIT R169 | UNIT R170 | UNIT R171 | UNIT R172 | UNIT R173 | UNIT R174 | UNIT R175 | UNIT R176 | UNIT R177 | UNIT R178 | UNIT R179 | UNIT R180 | UNIT R181 | UNIT R182 | UNIT R183 | UNIT R184 | UNIT R185 | UNIT R186 | UNIT R187 | UNIT R188 | UNIT R189 | UNIT R190 | UNIT R191 | UNIT R192 | UNIT R193 | UNIT R194 | UNIT R195 | UNIT R196 | UNIT R197 | UNIT R198 | UNIT R199 | UNIT R200 |
| GRADE FLOOR | COVERED WALKWAY | | | | | | | | | | | | | | | | | | | | GRADE FLOOR | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

NOTE: SHOW SUBJECT OF THIS PLAN IS AN INTEGRAL PART THEREOF.

- REVISIONS NOTATIONS:**
- 1) REVISIONS SHOWN HEREON ARE PLACED ON A 1/2" X 1/2" GRID.
 - 2) REVISIONS SHOWN HEREON ARE SHOWN TO THE NEAREST ONE-HUNDSETH FOOT (0.0001 FT.) UNLESS OTHERWISE NOTED.
 - 3) ASSHRAE TOLERANCES ARE SHOWN TO THE NEAREST ONE-TENTH FOOT (0.1 FT.).
 - 4) ALL DIMENSIONS UNLESS OTHERWISE NOTED ARE IN FEET AND INCHES.
 - 5) ALL DIMENSIONS UNLESS OTHERWISE NOTED ARE IN FEET AND INCHES.
 - 6) ALL DIMENSIONS UNLESS OTHERWISE NOTED ARE IN FEET AND INCHES.
 - 7) SEE FLOOR PLANS FOR TYPICAL INTERIOR WALL DIMENSIONS.
 - 8) FLOOR FINISH DEPTH OF REVISIONS REFERS TO THE DEEPEST FINISH OF THE FINISHES OF THE REVISIONS.
 - 9) REVISIONS OF THE HEALTH/SAFETY CONDITIONS EQUIPMENT AND SYSTEMS OF A CERTAIN UNIT ARE LOCATED OUTSIDE OF THE BOUNDARIES OF THAT UNIT AND CONSIDERED LIMITED COMMON ELEMENTS TO THE UNIT'S SERVICES.

308 # 04-1123

THE PHOENIX SURVEYING COMPANY, INC.
CONSULTANTS • SURVEYORS • PLANNERS
17840 TAYLOR ROAD N.W., SUITE 1, WYOMING, WY. 83044
N. (307) 425-1411 W. (307) 425-4114

SHEET 8 OF 8

THIS INSTRUMENT PREPARED BY:
Gary A. Kahle
Farr, Farr Emerich, Hackett and Carr, P.A.
99 Nesbit Street
Punta Gorda, FL 33950
(941) 639-1158

JOINDER OF MORTGAGEE

PENINSULA BANK, hereinafter referred to as "Mortgagee", is the owner and holder of that certain Mortgage dated March 28, 2005 and recorded on March 31, 2005 in Official Records Book 2669, Page 1925, and Consolidation and Modification of Promissory Notes and Mortgage, Receipt for Future Advance and Spreader Agreement dated June 26, 2006 and recorded on June 30, 2006 in O.R. Book 2995, Page 78; and Consolidation and Modification of Promissory Notes and Mortgage and Spreader Agreement recorded in O.R. Book 3130, Page 1162, all of the Public Records of Charlotte County, Florida (the "Mortgage").

The Mortgage encumbers the property described therein, which lands are to be submitted to condominium ownership as described in the Declaration of Condominium for WATER GARDENS, a Condominium to which this Joinder is attached.

Mortgagee joins in the making of the Declaration of Condominium of WATER GARDENS, a Condominium to which this Joinder is attached and agrees that the lien of the Mortgage, as to the above-described lands only, shall be upon the units of WATER GARDENS, a Condominium described as follows:

Units 121, 122, 123, 124, 125, 126, 131, 132, 133, 134, 135, 136, 141, 142, 143, 144, 145, and 146 of WATER GARDENS, a Condominium according to the Declaration thereof as recorded in O.R. Book _____, Page _____, et seq., and the Condominium Plat as recorded in Condominium Book _____, Pages _____ thru _____, all of the Public Records of Charlotte County, Florida, together with the common elements and limited common elements appurtenant to said units.

Provided, however, that this Joinder is not to be construed as a waiver of priority of the Mortgage nor a waiver of any of the terms and conditions of the Mortgage or the Note or Notes which it secures nor does this Joinder affect the lien of the Mortgage as to any other lands encumbered by the Mortgage.

Signed in the presence of:

Mary M. Mena

First Witness

Print Name: Mary M. Mena

Meredith A. Fleahman

Second Witness

Print Name: MEREDITH A. FLEAHMAN

PENINSULA BANK


By: [Signature]

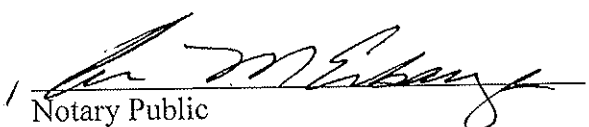
Printed Name: _____

Title: _____

STATE OF FLORIDA
COUNTY OF Charlotte

The foregoing was acknowledged before me this 4 day of April,
2007, by RICARDO SOLANO, as PRESIDENT of PENINSULA
BANK. [] He is personally known to me, or [] has produced
_____ as identification.

 Ann M Erbaugh
My Commission DD354387
Expires September 24, 2008



Notary Public
My Commission Expires:

035072.0000/46