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**DECLARATION OF CONDOMINIUM  
FOR  
TERRACE IV AT HERITAGE BAY**

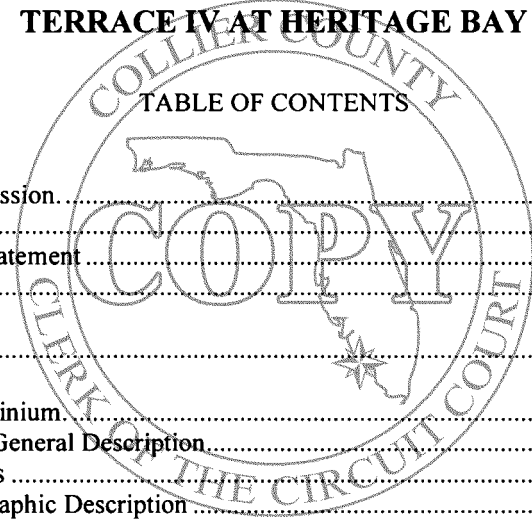


TABLE OF CONTENTS

	Page
1. Introduction and Submission.....	1
1.1. The Land.....	1
1.2. Submission Statement.....	1
1.3. Name.....	1
2. Definitions.....	1
3. Description of Condominium.....	5
3.1. Location and General Description.....	5
3.2. No Timeshares.....	5
3.3. Survey and Graphic Description.....	5
3.4. Units.....	5
3.4.1. Upper and Lower Boundaries.....	5
3.4.1.1. Upper Boundaries.....	5
3.4.1.2. Lower Boundaries.....	5
3.4.1.3. Interior Divisions.....	5
3.4.2. Perimetrical Boundaries.....	5
3.4.3. Apertures.....	5
3.4.4. Balconies, Patios and Terraces.....	6
3.4.5. Heating/Air Conditioning Equipment and Water Heater.....	6
3.4.6. Exterior Stairways.....	6
3.4.7. Exceptions.....	6
3.4.8. Entrances.....	6
3.4.9. General.....	6
3.5. Common Elements.....	6
3.6. Limited Common Elements.....	6
3.6.1. Balconies, Patios, Terraces, Interior Stairways and Foyers.....	6
3.6.2. Covered Parking Spaces.....	7
3.6.3. Storage Areas.....	7
3.6.4. Air Space and Area for Air Handling Compressor Equipment.....	7
3.6.5. Mailboxes.....	7

3.6.6. Other ..... 7

3.7. Easements..... 7

    3.7.1. Support..... 7

    3.7.2. Utilities and Drainage ..... 7

    3.7.3. Encroachments..... 7

    3.7.4. Ingress and Egress ..... 7

    3.7.5. Construction; Maintenance ..... 8

    3.7.6. Use of the Condominium ..... 8

    3.7.7. Additional Easements ..... 8

    3.7.8. Paved Driveways and Roads..... 8

    3.7.9. Water Transmission and Distribution Facilities Easement and Repair ..... 8

    3.7.10. Blanket Easement in Favor of District..... 9

    3.7.11. Easement in Favor of Master Association ..... 9

    3.7.12. Public Easements ..... 9

    3.7.13. Reservation of Right for Developer to Grant Additional Easements ..... 9

4. Restraint Upon Separation and Partition of Common Elements ..... 9

5. Ownership of Common Elements and Common Surplus and Share of Common Expenses; Voting Rights. .... 9

    5.1. Percentage Ownership and Shares ..... 9

    5.2. Voting ..... 9

6. Heritage Bay Community Development District..... 9

    6.1. Generally ..... 9

    6.2. Creation of the District ..... 10

    6.3. District Assessments ..... 10

    6.4. Common Areas and Facilities Part of District ..... 10

    6.5. Facilities Owned by District..... 11

7. Amendments..... 11

    7.1. Amendment by Association. .... 11

        7.1.1. Proposal ..... 11

        7.1.2. Notice..... 11

        7.1.3. Adoption ..... 11

        7.1.4. Not Present..... 11

    7.2. By Developer ..... 11

    7.3. Execution and Recording ..... 12

    7.4. Procedure ..... 12

    7.5. Restrictions on Amendments. .... 12

8. Maintenance and Repairs ..... 12

    8.1. Units..... 12

    8.2. Air Conditioning Air Handling Equipment ..... 13

    8.3. Limited Common Elements. .... 13

        8.3.1. General Maintenance Requirements ..... 13

        8.3.2. Balconies, Patios and Terraces..... 13

        8.3.3. Covered Parking Spaces ..... 13

        8.3.4. Storage Areas..... 13

        8.3.5. Canvas Canopies..... 14

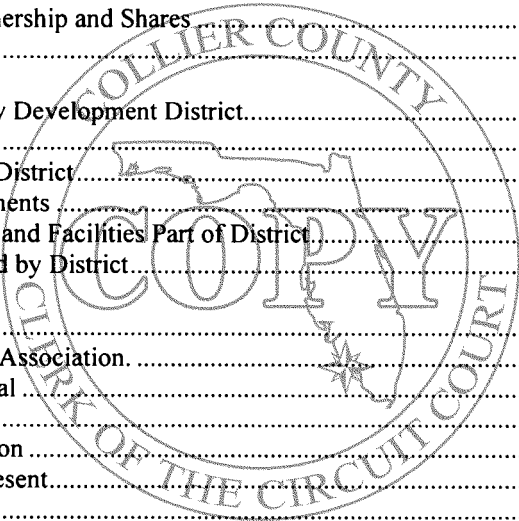
        8.3.6. Mailboxes, and other Limited Common Elements..... 14

        8.3.7. Failure to Perform Responsibilities..... 14

    8.4. Areas Outside Buildings..... 14

    8.5. Common Elements ..... 14

    8.6. Association’s Right of Access to Units..... 14



8.7. Light Fixtures ..... 14

8.8. Requirements ..... 15

8.9. Affirmative Obligation of Association..... 15

9. Architectural Control Provisions of Master Declaration ..... 15

10. Provisions of Master Declaration, Club Plan and The District..... 15

11. Architectural Control by Association ..... 15

11.1. Alterations by Unit Owners Other than Developer ..... 15

11.2. Requests for Approval..... 16

11.3. Alterations by Association ..... 16

11.4. Alterations by Developer ..... 16

12. Operation of the Condominium by Association; Power and Duties; Limitation Upon Liability of Association ..... 17

13. Assessments..... 17

13.1. Determination of Assessments ..... 17

13.2. Association as Unit Owner..... 17

13.3. Time for Payment..... 17

13.4. Annual Budget ..... 17

13.5. Reserve Funds ..... 18

13.6. Special Assessments ..... 18

13.7. Use Fees ..... 18

14. Collection of Assessments..... 18

14.1. Delinquency or Default ..... 18

14.2. Personal Liability of Unit Owner ..... 18

14.3. Liability not Subject to Waiver ..... 18

14.4. Lien for Assessment ..... 18

14.5. Recording and Priority of Lien..... 19

14.6. Effect of Foreclosure or Judicial Sale ..... 19

14.7. Effect of Voluntary Transfer..... 19

14.8. No Election of Remedies..... 19

14.9. Institutional First Mortgage..... 20

14.10. Developer’s Liability for Assessments..... 20

14.11. Possession of Unit..... 21

14.12. Certificate of Unpaid Assessments..... 21

15. Insurance ..... 21

15.1. Insurance Trustee ..... 21

15.2. Named Insured ..... 21

15.2.1. Custody of Policies and Payment of Proceeds ..... 21

15.2.2. Copies to Mortgagees ..... 21

15.3. Coverage ..... 21

15.3.1. Property Insurance ..... 21

15.3.2. Liability ..... 22

15.3.3. Workers’ Compensation Insurance ..... 22

15.3.4. Flood Insurance..... 22

15.3.5. Fidelity Insurance ..... 22

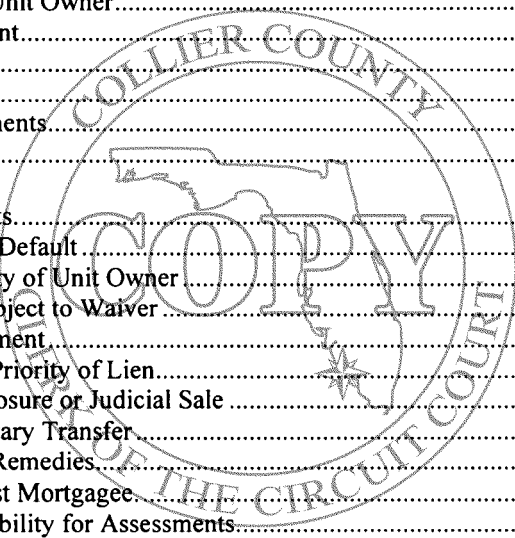
15.3.6. Directors and Officers Insurance ..... 22

15.3.7. Windstorm Coverage ..... 22

15.3.8. Other Insurance ..... 22

15.3.9. Waiver of Subrogation ..... 22

15.4. Premiums ..... 22



15.5.	Proceeds .....	22
15.6.	Mortgagees .....	22
15.7.	Distribution of Proceeds .....	22
15.7.1.	Expenses of the Trust .....	23
15.7.2.	Reconstruction or Repair .....	23
15.7.3.	Failure to Reconstruct or Repair .....	23
15.7.4.	Certificate .....	23
15.8.	Association as Agent .....	23
15.9.	Unit Owners Personal Coverage .....	23
16.	Reconstruction or Repair After Fire, Acts of Terrorism or Other Casualty .....	23
16.1.	Determination to Reconstruct or Repair .....	23
16.2.	Plans and Specifications .....	24
16.3.	Unit Owner Responsibility .....	24
16.4.	Estimate of Costs .....	24
16.5.	Special Assessments and Additional Charges .....	24
16.6.	Disbursement of Construction Funds .....	24
16.6.1.	Lesser Damage .....	24
16.6.2.	Major Damage .....	24
16.6.3.	Surplus .....	24
16.6.4.	Certificate .....	24
17.	Condemnation .....	25
17.1.	Deposit of Awards with Insurance Trustee .....	25
17.2.	Determination Whether to Continue Condominium .....	25
17.3.	Disbursement of Funds .....	25
17.4.	Unit Reduced but Habitable .....	25
17.4.1.	Restoration of Unit .....	25
17.4.2.	Distribution of Surplus .....	25
17.5.	Unit Made Uninhabitable .....	25
17.5.1.	Payment of Award .....	25
17.5.2.	Addition to Common Elements .....	25
17.5.3.	Adjustment of Shares .....	26
17.5.4.	Special Assessments .....	26
17.5.5.	Arbitration .....	26
17.6.	Taking of Common Elements .....	26
17.7.	Discretion of Board .....	26
17.8.	Amendment of Declaration .....	26
18.	Occupancy and Use Restrictions .....	26
18.1.	Assumption of Risk .....	26
18.2.	Awnings, Canopies and Shutters .....	27
18.3.	Barbecue Grills .....	27
18.4.	Bicycles .....	27
18.5.	Common Elements .....	27
18.6.	Effect on Developer; Association .....	27
18.7.	Exterior Improvements; Landscaping .....	27
18.8.	Lawful Use .....	27
18.9.	Leases .....	27
18.10.	Litter .....	28
18.11.	Nuisances .....	28
18.12.	Parking .....	28
18.13.	Pets .....	28
18.14.	Post Tension Concrete Slab System .....	29
18.15.	Rules and Regulations .....	29
18.16.	Signs .....	29

18.17. Units ..... 29

18.18. Utility Addition ..... 30

18.19. Weight and Sound Restrictions ..... 30

18.20. Hurricane Shutters ..... 30

19. Compliance and Default .....31

19.1. Negligence ..... 31

19.2. Compliance ..... 31

19.3. Costs and Attorneys’ Fees ..... 31

19.4. No Waiver of Rights ..... 31

20. Merger of Condominium and/or Association .....31

21. Termination of Condominium and/or Dissolution of Association .....31

22. Additional Rights of Institutional First Mortgagees ..... 32

23. Covenant Running With The Land ..... 33

24. Developer’s and Association’s Additional Rights ..... 33

24.1. Marketing Items ..... 33

24.2. Developer’s Limited Right of Entry ..... 33

24.3. Telecommunications Services ..... 33

24.3.1. Right to Contract for Telecommunications Services ..... 33

24.3.2. Easements ..... 34

24.3.3. Restoration ..... 34

24.3.4. Developer’s Rights ..... 34

24.4. Monitoring System ..... 34

24.4.1. Right to Install ..... 34

24.4.2. Components ..... 35

24.4.3. Part of Common Expenses ..... 35

24.4.4. Unit Owner’s Responsibility ..... 35

25. Non-Liability ..... 35

26. Resolution of Disputes ..... 36

27. Venue ..... 36

28. Reliance ..... 37

29. Construction Activities ..... 37

30. Notices ..... 37

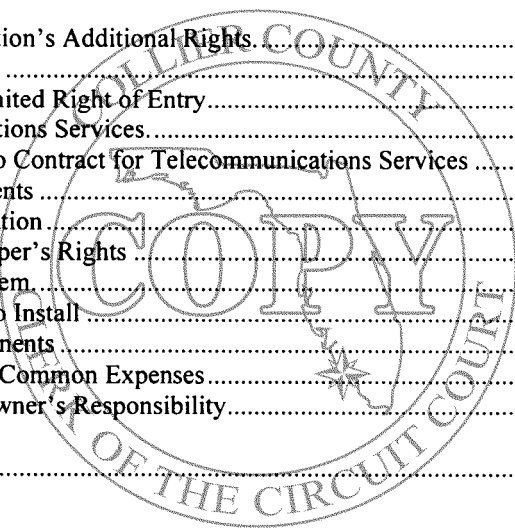
31. Interpretation ..... 38

32. Mortgagees ..... 38

33. Exhibits ..... 38

34. Blocked View; Trees and Shrubbery ..... 38

35. Governing Law ..... 38



36. Construction Matters .....38

37. Eligibility Requirements for Board Membership .....38

38. Manager.....38

39. Execution of Documents; Attorney-in-Fact.....39

40. Severability.....39

41. Waiver .....39

42. Ratification .....39

43. Gender; Plurality .....39

44. Captions.....39

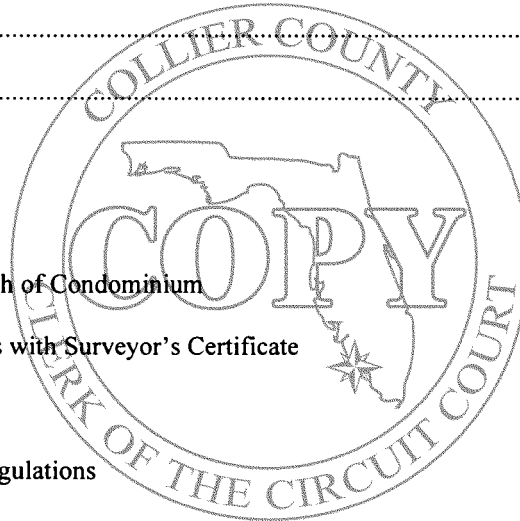
45. Refund of Taxes, Fees and Other Charges .....39

46. Title Documents .....39

47. No Contribution.....40

Exhibits

- A Legal Description and Sketch of Condominium
- B Plot Plan and Building Plans with Surveyor’s Certificate
- C Articles of Incorporation
- D By-Laws with Rules and Regulations



**DECLARATION OF CONDOMINIUM FOR  
TERRACE IV AT HERITAGE BAY**

LENNAR HOMES, LLC, a Florida limited liability company ("**Developer**"), does hereby declare as follows:

1. Introduction and Submission.

1.1. The Land. Developer owns the fee simple title to that certain land located in Collier County, Florida, as more particularly described in Exhibit A attached hereto (the "**Land**").

1.2. Submission Statement. Developer hereby submits the Land and all improvements erected or to be erected thereon, all easements, rights and appurtenances belonging thereto, and all other property, real, personal or mixed, intended for use in connection therewith to the condominium form of ownership and use in the manner provided by the Florida Condominium Act (the "**Act**") as it exists on the date hereof.

1.3. Name. The name by which this condominium is to be identified is Terrace IV at Heritage Bay (the "**Condominium**").

2. Definitions. The following terms used in this Declaration and the exhibits hereto shall have the following meanings, unless the context in which they are used clearly requires a different meaning:

"**Act**" means the Florida Condominium Act (currently Chapter 718 of the Florida Statutes). Unless provided otherwise, the provisions of the Act, as amended from time to time, shall govern the Condominium.

"**Articles**" means the Articles of Incorporation of Association as amended from time to time, a copy of which is attached hereto as Exhibit C.

"**Assessment(s)**" means a share of the funds required for the payment of Common Expenses which, from time to time, is assessed against the Unit Owner. The term Assessment shall include a Special Assessment.

"**Association**" means Terrace IV at Heritage Bay Association, Inc., a Florida corporation not-for-profit, the entity responsible for the operation of the Condominium.

"**Association Property**" means that property, real and personal, in which title or ownership is vested in Association for the use and benefit of its members. Association, upon approval by a majority of the Board may purchase or lease computer or similar equipment at any time if required or deemed beneficial for operation of the Condominium. Association shall have the right, but not the obligation, to acquire Association Property in its own name. Association may sell or transfer its interest in such Association Property.

"**Board**" means the Board of Directors of Association.

"**Building**" means a structure in which the Units are located on the Condominium Property. The Condominium shall contain One (1) Building.

"**By-Laws**" means the By-Laws of Association, as they exist from time to time, a copy of which is attached hereto as Exhibit D.

"**Cable Services**" shall mean "basic service tier" as described in Section 623(b)(7)(A) of the Cable Television Consumer Protection Act of 1992, video programming services offered on a per-channel or per-program basis, video programming services offered in addition to basic service tier, any method of delivering video programming to Units including, without limitation, interactive video programming, and any channel recognized in the industry as premium including, without limitation, HBO, Showtime, Disney, Cinemax and the Movie Channel. By way of example, and not of limitation, the term Cable Services may include cable television, satellite master antenna television, multipoint distribution systems, video dialtone, open video system or any combination thereof.

**“Club”, “the Club” or “Master Association”** means Heritage Bay Golf & Country Club, Inc., a Florida corporation not for profit, which is responsible for the maintenance and operation of the Club Common Areas within Heritage Bay Golf & Country Club, as described in the Governing Documents.

**“Club Common Areas”** means the real property and all improvements thereon owned or to be owned by the Club for the use and benefit of the members of the Heritage Bay Golf & Country Club.

**“Club Declaration” or “Master Declaration”** means the Declaration of Covenants, Conditions and Restrictions for Heritage Bay Golf & Country Club, as recorded in the Official Records of Collier County, Florida at O.R. Book 3989, Pages 2218-2272, as the same is amended from time to time.

**“Common Elements”** shall have the meaning set forth in Section 3.5 hereof.

**“Common Expenses”** means all expenses and assessments properly incurred by Association for the Condominium, including but not limited to any item designated as a common expense by the Act, this Declaration, or the By-Laws. Without limiting any other provision hereof, Common Expenses may include, at the Board’s option, any one or more of the following: (a) the costs of on-site managers, secretaries, concierges and/or other employees to provide services designated or requested by the Board; and (b) the costs of purchasing or leasing computer equipment for Association.

**“Common Surplus”** means the excess of all receipts of 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.

**“Condominium”** shall have the meaning set forth in Section 1.3 hereof.

**“Condominium Documents”** means this Declaration and all of the exhibits hereto, as they may be amended from time to time.

**“Condominium Parcel”** means a Unit together with the undivided share in the Common Elements which is appurtenant to such Unit.

**“Condominium Property”** means the Land and the personal property that are subject to condominium ownership under this Declaration, all improvements on the Land, and all easements and rights appurtenant thereto intended for use in connection with the Condominium.

**“Construction Matters”** shall have the meaning set forth in Section 36 hereof.

**“County”** shall mean Collier County, Florida.

**“Data Transmission Services”** shall mean (i) internet access services and (ii) enhanced services as defined in Section 64.702 of Title 47 of the Code of Federal Regulations, as amended from time to time, and without regard to whether the transmission facilities are used in interstate commerce.

**“Declaration”** means this instrument as it is amended from time to time.

**“Defendant”** shall have the meaning set forth in Section 36 hereof.

**“Developer”** means LENNAR HOMES, LLC, a Florida limited liability company, and its respective successors and such of its respective assigns as to which the rights of Developer hereunder are specifically assigned; provided however, a Unit Owner shall not solely by the purchase of a Condominium Parcel be deemed a successor to, or assignee of, the rights of Developer under this Declaration unless such Unit Owner is specifically so designated as such successor to, or assignee of, such rights in the respective instrument of conveyance or any other instrument executed by Developer. Developer may also assign only a portion of its rights hereunder, or all or a portion of such rights in connection with appropriate portions of the Condominium. In the event of such partial



assignment, the assignee shall not be deemed Developer, but may exercise such rights of Developer specifically assigned to it. Any such assignment may be made on a non-exclusive basis.

**“Directors”** shall mean the members of the Board.

**“District”** shall mean Heritage Bay Services District or Heritage Bay Community Development District.

**“District Debt Service Assessments”** shall have the meaning set forth in Section 6.2 hereof and the Master Declaration. See Section 6.3 of this Declaration for the actual District Assessment amounts.

**“District Maintenance Special Assessments”** shall have the meaning set forth in Section 6.2 hereof and the Master Declaration. See Section 6.3 of this Declaration for the actual District Assessment amounts.

**“Division”** means the Division of Florida Land Sales, Condominiums and Mobile Homes.

**“Families”** shall have the meaning set forth in Section 18.17 hereof, and as further described in the Master Documents.

**“Improvements”** mean all structures and artificial changes to the natural environment on the Condominium Property including, but not limited to, the Building.

**“Institutional First Mortgagee”** shall mean (i) the institutional and licensed holder of a first mortgage encumbering a Unit or Condominium Parcel or (ii) Developer and its affiliates, to the extent Developer or its affiliates finances the purchase of a Unit or Condominium Parcel initially or by assignment of an existing mortgage.

**“Insurance Trustee”** shall have the meaning set forth in Section 15.1 hereof.

**“Insured Property”** shall have the meaning set forth in Section 15.3.1 hereof.

**“Land”** shall have the meaning set forth in Section 1.1 hereof.

**“Landscaping”** shall mean all landscaping within the Condominium.

**“Limited Common Elements”** means those Common Elements which are designated by this Declaration for the exclusive use of a certain Unit or Units to the exclusion of other Units.

**“Mailbox”** shall have the meaning set forth in Section 3.6.5 hereof.

**“Master Association”**, **“Club”** or **“the Club”** means Heritage Bay Golf & Country Club, Inc., a Florida corporation not for profit, which is responsible for the maintenance and operation of the Club Common Areas within Heritage Bay Golf & Country Club, as described in the Governing Documents.

**“Master Declaration”** or **“Club Declaration”** means the Declaration of Covenants, Conditions and Restrictions for Heritage Bay Golf & Country Club, as recorded in the Official Records of Collier County, Florida at O.R. Book 3989, Pages 2218-2272, as the same is amended from time to time.

**“Monitoring System”** shall mean any electronic surveillance and/or monitoring system intended to control access, provide alarm service, and/or enhance the welfare of the Condominium. By way of example, and not of limitation, the term Monitoring System may include a central alarm system, electronic entrance gates, gatehouses, roving attendants, wireless communication to Units, or any combination thereof. THE PROVISION OF A MONITORING SYSTEM SHALL IN NO MANNER CONSTITUTE A WARRANTY OR REPRESENTATION AS TO THE PROVISION OF OR LEVEL OF SECURITY WITHIN THE CONDOMINIUM. DEVELOPER, ASSOCIATION, MASTER ASSOCIATION AND UMBRELLA ASSOCIATION DO NOT GUARANTEE OR WARRANT, EXPRESSLY OR BY IMPLICATION, THE MERCHANTABILITY OR FITNESS FOR USE OF ANY MONITORING SYSTEM, OR THAT ANY SUCH SYSTEM (OR ANY OF ITS COMPONENTS OR

RELATED SERVICES) WILL PREVENT INTRUSIONS, FIRES, OR OTHER OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE MONITORING SERVICE IS DESIGNED TO MONITOR THE SAME. EACH AND EVERY UNIT OWNER AND THE OCCUPANT OF EACH UNIT ACKNOWLEDGES THAT DEVELOPER, ASSOCIATION, MASTER ASSOCIATION AND UMBRELLA ASSOCIATION, THEIR RESPECTIVE EMPLOYEES, AGENTS, MANAGERS, DIRECTORS, AND OFFICERS, ARE NOT INSURERS OF UNIT OWNERS OR UNITS, OR THE PERSONAL PROPERTY LOCATED WITHIN UNITS. DEVELOPER, ASSOCIATION, MASTER ASSOCIATION AND UMBRELLA ASSOCIATION WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES, OR DEATHS RESULTING FROM ANY SUCH EVENTS.

“**Rules**” means any rules and regulations duly promulgated from time to time by the Board pursuant to its powers under any of the Condominium Documents.

“**Special Assessment**” means any Assessment levied against Unit Owners other than the Assessment required by a budget adopted annually.

“**Telecommunications Provider**” shall mean any party contracting with Association to provide Unit Owners with one or more Telecommunications Services. Developer may be a Telecommunications Provider. With respect to any particular Telecommunications Services, there may be one or more Telecommunications Providers. By way of example, with respect to Data Transmission Services, one Telecommunications Provider may provide Association such service while another may own, maintain and service the Telecommunications Systems which allow delivery of such Data Transmission Services.

“**Telecommunications Services**” shall mean delivered entertainment services; all services that are typically and in the future identified as telecommunication services; Telephony Services; Cable Services; and Data Transmission Services. Without limiting the foregoing, such Telecommunications Services include the development, promotion, marketing, advertisement, provision, distribution, maintenance, transmission, and servicing of any of the foregoing services. The term Telecommunications Services is to be construed as broadly as possible.

“**Telecommunications Systems**” shall mean all facilities, items and methods required and/or used in order to provide Telecommunications Services to the Condominium. Without limiting the foregoing, Telecommunications Systems may include wires (fiber optic or other material), conduits, passive and active electronic equipment, pipes, pedestals, wireless cell sites, computers, modems, satellite antenna sites, transmission facilities, amplifiers, junction boxes, trunk distribution, feeder cables, lock boxes, taps, drop cables, related apparatus, converters, connections, head-end antennas, earth stations, appurtenant devices, network facilities necessary and appropriate to support provision of local exchange services and/or any other item appropriate or necessary to support provision of Telecommunications Services. Ownership and/or control of all or a portion of any part of the Telecommunications Services may be bifurcated among network distribution architecture, system head-end equipment, and appurtenant devices (e.g., individual adjustable digital units).

“**Telephony Services**” shall mean local exchange services provided by a certified local exchange carrier or alternative local exchange company, intraLATA and interLATA voice telephony and data transmission.

“**Title Documents**” shall have the meaning given to such term in Section 46 herein.

“**Toll Calls**” shall have meaning given to such term by the Florida Public Service Commission and/or the Federal Communications Commission.

“**Turnover Date**” shall have the meaning given such term in the By-Laws which are attached hereto as **Exhibit D**. Without limiting the foregoing, Developer shall never be obligated to turnover Association prior to the date currently required by law.

“**Unit**” means a part of the Condominium Property which is subject to exclusive ownership and which is further described in Section 3.4 hereof.

“**Unit Owner**” or “**Owner**” means the record owner(s) of legal title to a Condominium Parcel.

“**Use Fees**” shall have the meaning set forth in Section 13.7 hereof.

“**Utilities**” shall include, but not be limited to, Telecommunication Services, gas, electricity, water and sewage and garbage and trash disposal. The inclusion of any of the foregoing in the description of Utilities is for illustration purposes only, and not a guaranty that any of such services will be available to the Condominium.

“**Voting Interest**” shall mean the voting rights appurtenant to each Unit, which is one (1) vote per Unit regardless of the number of Unit Owners with respect to such Unit.

Any initially capitalized term used herein not defined above shall have the meaning set forth in the Master Declaration.

### 3. Description of Condominium.

3.1. Location and General Description. The Condominium Property is situated in Collier County, Florida, and consists of One (1) Building containing a total of Thirty (30) Units and the Common Elements therein. Each Unit is identified on **Exhibit B** by a unique building and unit number. Other improvements included in the Condominium are landscaping and all underground structures and improvements which are not part of or located within the Building, such as wires, cables, drains, pipes, ducts, conduits, valves and fittings. Any reference to Exhibit “2” shall also be construed to refer to Exhibit “B” which is the Condominium Survey Plat.

3.2. No Timeshares. No timeshare estates will or may be created with respect to Units in this Condominium.

3.3. Survey and Graphic Description. **Exhibit B** to this Declaration contains the plot plans, building plans, graphic descriptions of the improvements, including the Units, and a Surveyor’s Certificate for the Condominium Property. **Exhibit B** to this Declaration, together with this Declaration, identifies the Common Elements and each Unit in the Condominium and their relative size and location.

3.4. Units. The Condominium contains a total of Thirty (30) Units which are located and individually described in **Exhibit B** hereto. The boundaries of each Unit are as follows:

3.4.1. Upper and Lower Boundaries. The upper and lower boundaries of the Unit shall be the following boundaries extended to their intersections with the perimeter boundaries:

3.4.1.1. Upper Boundaries. The horizontal plane or planes of the unfinished lower surface of the ceiling of the unit.

3.4.1.2. Lower Boundaries. The horizontal plane of the unfinished surface of the concrete floor of the unit.

3.4.1.3. Interior Walls. No part of the non-structural interior partition walls within a unit shall be considered part of the boundary of a unit.

3.4.2. Perimeter Boundaries. The perimeter boundaries of the unit shall be the vertical planes of the unfinished interior surfaces of the plasterboard walls bounding the unit as shown in Exhibit “B” hereto, extended to their intersections with each other and with the upper and lower boundaries.

3.4.3. Apertures. Where there are openings in any boundary, including, without limitation, windows, doors, and skylights, the boundaries of the unit shall extend to the interior unfinished surfaces of the coverings of such openings, and the frames thereof. Therefore, windows, doors, screens and all frames, casings and hardware thereof, are excluded from the unit.

3.4.4. Balconies, Patios, Terraces, Lanais, Storage Areas and Covered Parking Spaces. Balconies, patios, terraces, lanais, storage areas and covered parking spaces, if any, shall not form a part of a Unit as such areas are Limited Common Elements.

3.4.5. Heating/Air Conditioning Equipment and Water Heater. The heating/air conditioning equipment and water heater serving a Unit shall form a part of the Unit where such equipment is located. The maintenance of any such equipment shall be the sole responsibility of the Unit being served.

3.4.6. Exterior Stairways, Hallways and Foyer. The exterior stairways, hallways and foyer providing access to Units shall not form a part of a Unit as such areas are Limited Common Elements.

3.4.7. Exceptions. Any piping, wiring, ducts, or other utility installations which are located within one Unit but which service other Units or the common elements and the reinforced concrete portions of any load-bearing columns or walls within a Unit shall be Common Elements.

3.4.8. Entrances. The entrance to each Unit, as shown in Exhibit B hereto, shall be a Limited Common Element of the Unit which such entrance exclusively serves.

3.4.9. General. In cases not specifically covered above, and/or in any case of conflict or ambiguity, the survey of the Units shall control in determining the boundaries of a Unit, except that the provisions of Sections 3.4.1 and 3.4.2 above shall control unless specifically depicted and labeled otherwise on such survey.

3.5. Common Elements. The Common Elements include:

3.5.1. The portions of the Condominium Property which are not included within the Units.

3.5.2. Easements through Units for conduits, ducts, plumbing, pipes, wiring and other facilities for the furnishing of Utilities and other services to Units and Common Elements.

3.5.3. An easement of support in every portion of the Unit which contributes to the support of the Building.

3.5.4. The property and installations required for the furnishing of Utilities and other services to more than one Unit or to the Common Elements.

3.5.5. Limited Common Elements; provided, however, Limited Common Elements are not accessible by all Unit Owners.

3.5.6. Fixtures owned or held for the common use, benefit and enjoyment of all Unit Owners in the Condominium.

3.5.7. Meter rooms, electrical rooms and mechanical rooms, if any.

3.6. Limited Common Elements. Each Unit shall have certain Limited Common Elements appurtenant thereto as follows:

3.6.1. Balconies, Patios, Terraces, Lanais, Interior Stairways and Foyers. Balconies, patios, terraces, lanais, interior stairways and foyers which are accessible from a Unit shall be Limited Common Elements appurtenant to the Unit and for the exclusive use of the Unit Owner owning such Unit. There is no guarantee that any Unit shall have any specific view.

3.6.2. Covered Parking Spaces. Each Unit shall be entitled to the exclusive use of one (1) one Covered Parking Space that is assigned to that Unit together with the exclusive right of use of any driveway pavement leading to any Covered Parking Space. After exclusive use of any such Garage is assigned by Developer

to a Unit, it may not be conveyed, assigned or encumbered except as an appurtenance to the Unit to which it is assigned.

3.6.3 Storage Areas. Each Unit shall be entitled to the exclusive use of one (1) one Storage Area that is assigned to that Unit. After exclusive use of any such Storage Area is assigned by Developer to a Unit, it may not be conveyed, assigned or encumbered except as an appurtenance to the Unit to which it is assigned.

3.6.4 Air Space and Area for Air Handling Compressor Equipment. The right of exclusive use of the air space and area of the land adjacent to each Unit (or on the slab adjacent to the Unit located below such Unit with respect to second floor Units) occupied by the air handling compressor equipment constituting a part of and serving a Unit shall be a Limited Common Element appurtenant to the Unit.

3.6.5 Mailboxes. Each Unit shall be assigned one (1) mailbox (each, a "Mailbox"). Upon such assignment, the Mailbox so assigned shall be deemed a Limited Common Element of the Unit and the Unit Owner's right to use such Mailbox shall become an appurtenance to the Unit. The exclusive use of any such Mailbox may not be conveyed or assigned to another Unit or Unit Owner.

3.6.6. Other. Any other portion of the Common Elements which, by its nature, cannot serve all Units but serves one (1) Unit or more than one (1) Unit, shall be deemed a Limited Common Element of the Unit(s) served and shall be maintained by such Owner. In the event of any doubt or dispute as to whether any portion of the Common Elements constitutes a Limited Common Element or in the event of any question as to which Units are served thereby, a decision shall be made by a majority vote of the Board and shall be binding and conclusive when so made.

3.7. Easements. The following easements are hereby created (in addition to any easements created under the Act and any easement affecting the Condominium Property and recorded in the Public Records of County).

3.7.1. Support. Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units and the Common Elements.

3.7.2. Utilities and Drainage. Easements are reserved under, through and over the Condominium Property as may be required from time to time for Utilities, other services, and drainage in order to serve the Condominium and/or members of Association. A Unit Owner shall do nothing within or outside his or her Unit that interferes with or impairs, or may interfere with or impair, the provision of such Utilities, other services or drainage facilities or the use of these easements.

3.7.3. Encroachments. An easement for the unintentional and non-negligent encroachment by any Unit upon any other Unit or Common Element, or vice versa, for any reason not caused by or resulting from the willful or negligent act of any Unit Owner, including without limitation, encroachments caused by or resulting from the original construction of improvements, which exclusive easement shall exist at all times during the continuance of such encroachment, as an easement appurtenant to the encroaching Unit or other improvement, to the extent of such encroachment. Encroachments may result from (i) construction of the Improvements; (ii) settling or shifting of the Improvements; (iii) any alteration or repair to the Common Elements made by or with the consent of Association, and/or (iv) any repair or restoration of the Improvements (or any portion thereof) after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements.

3.7.4. Ingress and Egress. Non-exclusive easements in favor of each Unit Owner and resident, their guests and invitees, and the unit owners, residents, guests and invitees of the Other Condominiums shall exist for pedestrian traffic over, through and across sidewalks, streets, paths, walks and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use; and for vehicular and pedestrian traffic over, through and across such portions of the Common Elements as from time to time may be

