

EXHIBIT D
BY-LAWS

BYLAWS
OF
NAPLES SQUARE II
CONDOMINIUM ASSOCIATION, INC.

1. **GENERAL.** These are the Bylaws of Naples Square II Condominium Association, Inc., hereinafter the "Association", a corporation not for profit, organized under Florida law for the purpose of operating a residential condominium pursuant to the Florida Condominium Act.

1.1 **Principal Office.** The principal office of the Association shall be at the Condominium, or at such other place as the Board of Directors may determine.

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

1.3 **Definitions.** Certain terms used herein shall have the same definitions as stated in the Declaration of Condominium to which these Bylaws are attached as an Exhibit.

2. **MEMBERS.** The members of the Association shall be the record owners of legal title to the Units.

2.1 **Voting Interests.** The members of the Association shall have the Voting Interest set forth in section 4.23 of the Declaration. The vote of a Unit is not divisible. If a Unit is owned by one natural person or one natural person acting as trustee, the right to vote is established by the record title to the Unit. If a Unit is owned jointly by two or more natural persons or natural persons acting as trustees, the Unit's vote may be cast by any one of the record owners. If two or more owners of a Unit will not agree among themselves how their votes shall be cast on any question, the vote shall not be counted on that question. If the owner of a Unit is a corporation, the vote may be cast by the president or vice president of the corporation. If a Unit is owned by a partnership, any general partner may cast the vote.

2.2 **Approval or Disapproval of Matters.** Whenever the decision of a Unit Owner is to be given or evidenced on any matter, whether the subject of an Association meeting or not, such decision may be expressed by any person authorized in Section 2.1 above to cast the vote of the Unit, unless the written joinder or approval of all record owners is specifically required.

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

3. MEETINGS OF THE MEMBERS; VOTING.

3.1 Annual Meeting. The annual meeting shall be held each year between February 1st and April 1st, at a day, place and time designated by the Board of Directors, for the purpose of transacting any business authorized to be transacted by the members. At the time of the annual meeting, all ballots cast in the annual election of Directors shall be counted and results announced.

3.2 Special Meetings. Special meetings of the members shall be held whenever called by the President or by a majority of the Directors, and may also be called by a majority of the Voting Interests of the Association. Business at any special meeting shall be limited to the items specified in the notice of meeting.

3.3 Notice of Meetings. Notices of a meeting of the members must be mailed, hand-delivered or electronically transmitted to each unit owner at least fourteen (14) days before the meeting and must be posted in a conspicuous place on the Condominium property at least 14 continuous days preceding the annual meeting. The Notice must state the time, date, and place of the meeting, and include a detailed agenda. Mailed notices must be sent to each member at the address last furnished to the association by the unit owner, hand delivered to each unit owner, or transmitted electronically to each member. Each member bears the responsibility for notifying the Association of any change of address. Any person entitled to receive notice of any meeting may waive notice altogether by written waiver. If ownership of a Unit is transferred after notice has been mailed, no separate notice to the new owner is required. Attendance at any meeting by a member constitutes waiver of notice by that member, unless the member objects to the lack of notice at the beginning of the meeting.

3.4 Notice of Annual Meeting; Special Requirements. At least sixty (60) days prior to an annual meeting, the Association shall mail to each Unit Owner entitled to vote, a first notice of the date of the annual meeting and election. Additionally, notice of the annual meeting, together with a detailed agenda, shall be posted in a conspicuous place on the Condominium property or association property for at least fourteen (14) continuous days prior to the annual meeting. The notice and agenda for the annual meeting shall also be sent by first class mail or electronically delivered at least fourteen (14) continuous days prior to the meeting to each Owner and an affidavit of the officer or other person responsible for mailing or electronically delivering the notice shall be retained in the Association records as proof of notice.

3.5 Quorum. A quorum at a duly called members meeting is attained by the presence, either in person or by proxy, of at least a majority of the Voting Interests of the Association. Once a quorum has been attained at a meeting, the subsequent withdrawal of some of the Voting Interests does not destroy the quorum until the meeting is finally adjourned.

3.6 Vote Required. The acts approved by the owners of at least a majority of the Voting Interests present in person or by proxy at a duly called meeting of the members at which a quorum has been attained shall be the acts of the members, except where a greater or different number of votes is required by law, or by any provision of the condominium documents.

3.7 Proxy Voting. To the extent lawful, any person entitled to attend and vote at a members meeting may establish his presence and cast his vote by proxy. However, proxies shall in no event be used in electing the Board of Directors, except in elections to fill vacancies caused by recall. "**Limited proxies**" must be used for votes taken to waive reserves or financial statement requirements, to amend the condominium documents, and for all other matters for which the Condominium Act requires or permits a vote of the members, and may be used to establish a quorum. "**General proxies**" may be used to establish a quorum, for procedural votes, and for non-substantive amendments to proposals for which a limited proxy is being used. A proxy is valid only for the specific meeting for which originally given and any lawful adjournment of that meeting, and no proxy is valid longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy is revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by a person authorized to cast the vote of the Unit, and specify the date, time and place of the meeting for which it is given. The original must be delivered to the Secretary at or before the time of the meeting or continuance thereof. Holders of proxies need not be members. No proxy is valid if it names more than one person proxyholder, but the proxyholder has the right, if the proxy so provides, to substitute another person to hold the proxy.

3.8 Adjourned Meetings. Any duly called meeting of the members may be adjourned, to be reconvened at a specific later time, date and place, by vote of a majority of the Voting Interests present, regardless of whether a quorum has been attained. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted at the continuance as long as a quorum is attained.

3.9 Minutes. Minutes of all meetings of members and of the Board of Directors shall be kept in a businesslike manner, available for inspection and copying by Unit Owners or their authorized representatives at all reasonable times for at least seven (7) years after the meeting. Minutes must be reduced to written form within thirty (30) days after the meeting to which they relate.

3.10 Action by Members Without Meeting. Except for the holding of the annual meeting and the annual election of Directors, any action required or permitted to be taken at a meeting of the members may be taken by mail without a meeting if written consents, or other instruments expressing approval of the action proposed to be taken, are signed and returned by members having at least the minimum number of votes that would be necessary to approve the action at a meeting at which all of the Voting Interests were present and voting. If the requisite number of written consents are received by the Secretary within sixty (60) days after the earliest date which appears on any of the consent forms received, the proposed action so authorized shall be of full force and effect as if the action had been approved by vote of the members at a meeting of the members held on the sixtieth (60th) day. Within ten (10) days thereafter, the Association shall send written notice of the action taken to all members who have not consented in writing. Nothing in this paragraph affects the rights of members to call a special meeting of the membership, as provided for by Section 3.2 above, or by law. If the vote is taken by the method described in this Section 3.10, the list of Unit Owners on record with the Secretary at the time of mailing the voting material shall be the list of qualified voters.

4. BOARD OF DIRECTORS. The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the condominium documents, shall be exercised by the Board, subject to the approval of, or consent by, the Unit Owners only when such is specifically required.

4.1 Number and Terms of Service. The number of Directors which shall constitute the whole Board of Directors shall be three (3). In order to provide for a continuity of experience, by establishing a system of staggered terms of office, in the first election in which Unit Owners other than the Developer elect a majority of the Directors, the number of Directors to be elected shall be three (3). The two candidates receiving the highest number of votes shall be elected for a term of two (2) years. All other candidates shall serve a term of one (1) year. If there are no more candidates than there are seats to be filled, the determination of who is elected to serve the longer terms shall be made among them by agreement, or by lot. Thereafter, all Directors shall be elected for one (1) year terms. A Director's term ends at the final adjournment of the annual election at which his successor is to be duly elected, or at such other time as may be provided by law. Directors shall be elected by the members as described in Section 4.3 below, or in the case of a vacancy, as provided in Section 4.4 below.

4.2 Qualifications. Except for Directors appointed by the developer, each Director must be at least eighteen (18) years of age, and must also be a Unit Owner. However, only one member per Unit shall be eligible at any time to serve on the Board of Directors. 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 rights restored pursuant to law in the jurisdiction of his or her residence is not eligible for board membership. Additionally, any member who is delinquent in the payment of any monetary obligation to the Association shall not be eligible for Board membership.

4.3. Annual Elections. At each annual meeting the members shall elect as many Directors as there are regular terms of Directors expiring or other vacancies to be filled by election. Any Unit Owner or other eligible person desiring to be a candidate shall give written notice to the Association of his or her intent not less than forty (40) days prior to the scheduled election. Directors shall be elected by a plurality of the votes cast in person at the annual meeting. In the election of Directors, there shall be appurtenant to each Unit as many votes for Directors as there are Directors to be elected, but no Unit may cast more than one (1) vote for any candidate, it being intended that voting for Directors shall be non-cumulative. The candidates receiving the highest number of votes shall be elected. The votes may be broken by agreement among the candidates who are tied, or if there is no agreement, by a run-off election. Within 90 days after being elected or appointed to the Board, each newly elected or appointed director shall comply with the requirements of Section 718.112(d)4.b, Florida Statutes, as amended from time to time.

4.4 Vacancies. Except as otherwise provided by law for the filling of vacancies during the time when the Developer is entitled to appoint at least one Director, if the office of any Director becomes vacant for any reason, a successor or successors to fill the remaining unexpired term or terms shall be appointed or elected as follows:

(A) If a vacancy is caused by the death, disqualification or resignation of a Director, a majority of the remaining Directors, though less than a quorum, shall appoint a successor, who shall hold office for the remaining unexpired term.

(B) If a vacancy occurs as a result of a recall and less than a majority of the Directors are removed, the vacancy may be filled by appointment by a majority of the remaining Directors. If vacancies occur as a result of a recall in which a majority or more of the Directors are removed, the vacancies shall be filled in accordance with the administrative rules of the Division governing

the method of selecting successors, and providing for the operation of the Association during the period after the recall but prior to the designation of successor Directors sufficient to constitute a quorum.

4.5 Removal or Recall of Directors. Any or all Directors, except those appointed by the Developer, may be removed with or without cause by a majority vote of the total Voting Interests, either by a written petition or at any meeting called for that purpose. If a meeting is held or a petition is filed for the removal of more than one Director, the question shall be determined separately as to each Director sought to be removed. If a special meeting is called by ten percent (10%) of the Voting Interests for the purpose of recall, the notice of the meeting must be accompanied by a dated copy of the signature list, stating the purpose of the signatures. The meeting must be held not less than fourteen (14) days nor more than sixty (60) days from the date that notice of the meeting is given. Electronic transmission may not be used as a method of giving notice of a meeting called in whole or in part for this purpose.

4.6 Organizational Meeting. The organizational meeting of a new Board of Directors shall be held within ten (10) days after the election of new Directors, at such time, day and place as may be fixed and announced by the Directors at the meeting in conjunction with which they were elected. Notice of the organizational meeting must be given in accordance with sections 4.7 and 4.8 hereof.

4.7 Other Meetings; Notice to Directors. Meetings of the Board may be held at such time and place in Collier County, Florida, as shall be determined from time to time by the President or by a majority of the Directors. Notice of all meetings shall be given to each Director, personally or by mail, telephone or electronic transmission at least forty-eight continuous hours in advance of such meeting.

4.8 Notice to Owners. All meetings of the Board of Directors shall be open to the Unit Owners. A notice and agenda for each Board meeting shall be posted conspicuously on the Condominium property for at least forty-eight (48) continuous hours in advance of each Board meeting, except in an emergency. Notice of any Board meeting at which a non-emergency special assessment or a rule restricting the use of Units is to be considered for any reason shall be mailed or transmitted electronically to each Owner at least fourteen (14) days before the meeting, and an affidavit of mailing/transmission shall be retained as proof of mailing. Notice of any Board meeting at which a budget will be adopted or amended shall conform to the requirements of Section 6.2 below. The right of owners to attend Board meetings includes the right to speak on designated agenda items, subject to reasonable rules of the Association governing the manner, duration and frequency of doing so.

4.9 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. If all Directors are present at a meeting, no notice to Directors shall be required.

4.10 Quorum of Directors. A quorum exists at a Board meeting only when at least a majority of Directors are present in person. Directors may not vote or participate by proxy at Board meetings. Directors may, however, participate in any meeting of the Board, or meeting of an executive or other committee, by means of a conference telephone call or similar communicative arrangement whereby all persons present can hear and speak to all other persons. Participation by such means shall be deemed equivalent to presence in person. Directors may not vote by proxy at Board meetings, except that officers may be elected by secret ballot.

4.11 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting while a quorum exists are the acts of the Board of Directors, except when approval by a greater number of Directors is required by the condominium documents or by applicable statutes. A Director who is present at a meeting of the Board shall be deemed to have voted in favor of the prevailing point of view on any action taken, unless he voted against such action or abstained from voting because of an asserted conflict of interest. The vote or abstention of each Director present on each issue voted upon shall be recorded in the minutes.

4.12 Adjourned Meetings. The majority of the Directors present at any meeting of the Board, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specific time and date. At any reconvened meeting, if a quorum is present, any business may be transacted that might have been transacted at the meeting originally as called.

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

4.14 Compensation of Directors and Officers. Neither Directors nor officers shall receive compensation for their services as such. Directors and officers may be reimbursed for all actual and proper out-of-pocket expenses relating to the proper discharge of their duties.

4.15 Committees. The Board of Directors may appoint from time to time such standing or temporary committees as the Board may deem necessary and convenient for the efficient and effective operation of the Condominium. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. If a committee has delegated to it the authority to act for and in the place of the Board, including the power to authorize the expenditure of funds, or to prepare a proposed budget, the committee shall conduct its meetings, and give notice of such meetings, with the same formalities as required for Board meetings.

4.16 Emergency Powers. In case of any emergency as defined in Paragraph 4.16(G) below, the Board of Directors may exercise the emergency powers described in this Section, and any other emergency powers authorized by Florida Statutes, as amended from time to time.

(A) The Board may name as assistant officers persons who are not Directors in order to accommodate the absence or incapacity of any executive officer. During any emergency, the assistant officers shall have the same authority as the executive officers to whom they are assistant.

(B) The Board may relocate the principal office, specify alternate principal offices, or authorize the officers to do so.

(C) During any emergency the Board may hold meetings with notice given to only those Directors with whom it is practicable to communicate. The notice may be given in any practicable manner. The Director or Directors present at such a meeting shall constitute a quorum.

(D) Corporate action taken under this Section in good faith during what is reasonably believed to be an emergency to further the affairs of the Association shall bind the Association, and shall have the rebuttable presumption of being reasonable and necessary.

(E) Any officer, director, or employee of the Association acting under this Section with a reasonable belief that his actions are lawful, and without good cause to believe that his actions are unlawful, shall incur no liability for doing so.

(F) These emergency Bylaws supersede any inconsistent or contrary provisions of the Bylaws during any emergency.

(G) For purposes of this Section, an “**emergency**” exists only when the Condominium, or the immediate geographic area in which the condominium is located, is subject to:

- (1) a state of emergency declared by local civil or law enforcement authorities;
- (2) a hurricane warning;
- (3) a partial or complete evacuation order;
- (4) federal or state disaster area status; or
- (5) a catastrophic occurrence, whether natural or manmade, which seriously damages or threatens to seriously damage the physical existence of the condominium, such as an earthquake, tidal wave, fire, hurricane, tornado, war, civil unrest, or act of terrorism.

An “emergency” also exists for purposes of this Section during the time when a quorum of the Board cannot readily be assembled because of the occurrence of a catastrophic event, such as a hurricane, earthquake, act of war or terrorism, or other similar event. A determination by any two (2) Directors, or by the President, that an emergency exists shall have presumptive validity.

5. OFFICERS.

5.1 Officers and Elections. The executive officers of the Association shall be a President and a Vice-President, who must be Directors, and a Treasurer and a Secretary, all of whom shall be elected annually by a majority of the Directors. Any officer may be removed with or without cause by vote of a majority of all Directors at any meeting. Any person except the President may hold two (2) or more offices. The Board may, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one (1) Vice-President.

5.2 President. The President shall be the chief executive officer of the Association; shall preside at all meetings of the members and Directors, shall be ex-officio a member of all standing committees, shall have general and active management of the business of the Association, and shall see that the

orders and resolutions of the Board are carried into effect. The President shall have authority to sign contracts requiring seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

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

5.4 Secretary. The Secretary shall attend meetings of the Board of Directors and of the members, and shall cause all votes and the minutes of all proceedings to be recorded in a book or books to be kept for the purpose, and shall perform like duties for the standing committees when required. The Secretary need not be a member of the Association. The Secretary shall give, or cause to be given, notice of all meetings of the members and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. The Secretary shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the condominium documents. Any of the foregoing duties may be performed by an Assistant Secretary, if one has been designated.

5.5 Treasurer. The Treasurer shall be responsible for Association funds and securities, the keeping of full and accurate accounts of receipts and disbursements in books belonging to the Association, and the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. The Treasurer shall oversee the disbursement of the funds of the Association, keeping proper vouchers for such disbursements, and shall render to the President and Directors, at the meetings of the Board, or whenever they may require it, an accounting of all transactions and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if any has been designated.

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

6.1 Depository. The Association shall maintain its funds in federally insured accounts or investments with such financial institutions doing business in the State of Florida as shall be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board.

6.2 Budget. The Board of Directors shall adopt a budget of common expenses in advance for each fiscal year. A copy of the proposed budget and a notice stating the time, date and place of the meeting of the Board at which the budget will be adopted shall be mailed or electronically transmitted to or served on the owner of each Unit not less than fourteen (14) days prior to that meeting. The proposed budget shall be detailed and shall show the amounts budgeted by income and expense classifications. 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.

6.3 Statutory Reserves for Capital Expenditures and Deferred Maintenance. In addition to annual operating expenses, the proposed budget must include reserve accounts for capital expenditures and deferred maintenance as required by law. These accounts shall include roof replacement, building painting, and pavement resurfacing, and shall also include any other planned or foreseeable capital expenditure or deferred maintenance item with a current estimated cost of \$10,000 or more. The amount to be reserved shall be computed by a formula based upon estimated remaining useful life and estimated replacement cost of each item. These reserves shall be funded unless a majority of the Voting Interests, present in person or by proxy at a duly called meeting at which a quorum is present, vote to fund no reserves or less than adequate reserves for a fiscal year. The vote to waive or reduce the funding of reserves, if any is taken, may be taken only after the proposed budget has been mailed to the Unit Owners as required in Section 6.2 above. Reserves funded under this paragraph, and any interest earned thereon, shall be used only for the purposes for which they were reserved, unless their use for other purposes is approved in advance by a majority of the Voting Interests present in person or by proxy at a duly called meeting of the Association called for the purpose at which a quorum has been attained.

6.4 Other Reserves. In addition to the statutory reserves provided in Section 6.3 above, the Board may establish one or more additional reserve accounts for contingencies, operating expenses, repairs, minor improvements or cash flow shortfalls. The purpose of these reserves is to provide financial stability and to avoid the need for special assessments on a frequent basis. The amounts proposed to be so reserved shall be shown in the proposed annual budget each year. These funds may be spent for any purpose approved by the Board.

6.5 Assessments. "Regular" annual assessments based on the adopted budget shall be paid in quarterly installments, in advance, due on the first day of January, April, July and October of each year. Written notice of each quarterly installment shall be sent to the members at least fifteen (15) days before the due date, but failure to send or receive the notice does not excuse the obligation to pay. If an annual budget has not been adopted when the first quarterly installment for a fiscal year is due, it shall be presumed that the amount of the quarterly installment is the same as for the last, and payments shall be continued at that rate until a budget is adopted and new assessments are calculated, at which time an appropriate adjustment shall be added or subtracted from each Unit's next due quarterly installment.

6.6 Special Assessments. Special assessments may be levied by the Board of Directors when needed to meet unusual, unexpected, or unbudgeted expenses. Special assessments are due on the day specified in the resolution of the Board approving such assessments. The notice to members that a special assessment has been levied must state the specific purpose(s) for the assessment. The funds collected must be spent for the stated purpose(s) or returned to the owners as provided by law.

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

6.8 Financial Reports. In accordance with Section 718.111(13) of the Condominium Act, not later than ninety (90) days after the close of each fiscal year, the Board shall distribute to the owners of each Unit a financial report, as required by Section 718.111(13) of the Condominium Act.

6.9 Fiscal Year. The fiscal year for the Association shall begin on the first day of January of each calendar year.

7. RULES AND REGULATIONS. The Board of Directors may, from time to time, adopt and amend administrative rules and regulations governing the use, maintenance, management and control of the Common Elements and the operation of the Association. Copies of such rules and regulations shall be furnished to each Unit Owner. Any rule or regulation created and imposed by the Board must be reasonably related to the promotion of the general good of the Association and uniformly applied and enforced.

8. COMPLIANCE AND DEFAULT; REMEDIES. In addition to the remedies provided in Section 19 of the Declaration of Condominium, the following shall apply:

8.1 Fines and Suspensions. The Association may levy fines against the Owner of a Unit, or its occupant, licensee or invitee who fail to comply with any provision of the Declaration of Condominium, Rules and Regulations or other condominium documents. Fines shall be in amounts deemed necessary by the Board to deter future violations, but in no event shall any fine exceed the maximum amount allowed by Section 718.303(3), Florida Statutes, as may be amended from time to time. The Association may also suspend, for a reasonable period of time, the right of the Owner of a Unit, or its occupant, licensee or invitee to use the Common Elements, common facilities, or any other Association property, for failure to comply with any provision of the Declaration of Condominium, Rules and Regulations or other condominium documents. Any suspension of use rights shall not apply to Limited Common Elements intended to be used only by the Unit, Common Elements needed to access the Unit, utility services provided to the Unit, parking spaces, or elevators. The procedure for imposing fines and/or suspensions shall be as follows:

(A) Notice: The party against whom the fine and/or suspension is sought to be levied shall be afforded an opportunity for hearing after reasonable written notice of not less than fourteen (14) days, and the notice shall include:

- (1) A statement of the date, time and place of the hearing;
- (2) A specific designation of the provisions of the Declaration, Bylaws or rules which are alleged to have been violated; and
- (3) The specific facts giving rise to the alleged violation(s).

(B) Hearing: At the hearing the party against whom the fine and/or or suspension may be levied shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, and to review, challenge, and respond to any evidence or testimony presented by the Association. The hearing shall be conducted before a panel of at least three (3) Unit Owners appointed by the Board, none of whom may be a Board member or a person

residing in a Board member's home. If a majority of the committee does not agree with the fine or suspension, it may not be levied.

8.2 Mandatory Non-Binding Arbitration. In the event of any "dispute" as defined in Section 718.1255(1) of the Condominium Act, between a Unit Owner and the Association arising from the operation of the Condominium, the parties must submit the dispute to mandatory non-binding arbitration under the rules of the Division of Florida Condominiums, Timeshares, and Mobile Homes prior to filing any lawsuit over the disputed matters. Nothing herein shall be construed to require arbitration of disputes related to the levy or collection of fees or assessments.

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

8.4 Suspension of Rights for Failure to Pay Assessments. If a Unit Owner is more than 90 days delinquent in paying a monetary obligation due to the Association, the Association may suspend the voting rights of the Unit Owner, and may also suspend the right of the Unit Owner or the Unit's occupant, licensee, or invitee to use Common Elements, common facilities, or any other Association property until the monetary obligation is paid in full. Any suspension shall not apply to Limited Common Elements intended to be used only by the Unit, Common Elements needed to access the Unit, utility services provided to the Unit, parking spaces, private garages, or elevators, and no notice or hearing shall be required. A Voting Interest or consent right allocated to a Unit or member which has been suspended by the Association may not be counted towards the total number of Voting Interests necessary to constitute a quorum, the number of Voting Interests required to conduct an election, or the number of Voting Interests required to approve an action. The suspension of rights shall end upon full payment of all obligations currently due or overdue the Association. No notice or hearing shall be required for a suspension imposed under this Section 8.4. All suspensions imposed under this Section 8.4 must be approved at a properly noticed Board meeting. Upon approval, the Association must notify the Unit Owner and, if applicable, the Unit's occupant, licensee, or invitee by mail or hand delivery.

9. TRANSFER OF ASSOCIATION CONTROL; DEVELOPER'S RIGHTS.

9.1 Transfer of Control of Board of Directors. The Developer shall transfer control of the Association to the Unit Owners as provided for in Section 21 of the Declaration of Condominium, to which these Bylaws are attached as an Exhibit.

9.2 Developer's Right to Designate Directors. The Developer has the power to appoint at least one Director as long as the Developer holds for sale in the ordinary course of business at least five percent (5%) of the total Units.

9.3 Notice of Elections; Turnover Meeting. Within seventy-five (75) days after Unit Owners other than the Developer become entitled to elect one or more Directors, the Association shall call, upon not less than sixty (60) days notice, and hold an election of the Director or Directors that the Unit Owners

are entitled to elect. The election shall be held in conjunction with a meeting of the members, either special or annual. The turnover meeting and election may be called, and the notices given, by any Unit Owner if the Association fails to do so. All non-developer Unit Owners may vote in the election of Directors. The meeting in conjunction with which Unit Owners other than the Developer first elect a majority of the Directors is commonly referred to as the "turnover meeting". The election shall be valid as long as the owners of at least twenty percent (20%) of the Units cast a ballot, even if a quorum is not present.

9.4 Transfer of Association Control. Unit Owners other than the Developer assume control of the Association when they first acquire and exercise the right to elect at least a majority of the Directors. At that time the Developer must deliver to the Association all property of the Association held or controlled by the Developer, and all items and documents that the Developer is required to deliver or turn over under Florida law. The Developer, in its sole discretion, may turn over control of the Association before the statutory deadline by causing all of its appointed Directors to resign, whereupon it becomes the affirmative obligation of Unit Owners other than the Developer to elect Directors and assume control. As long as at least sixty (60) days notice of the Developer's decision to cause its appointees to resign is given to Unit Owners, neither the Developer, nor such appointees, shall be liable in any manner in connection with such resignations, even if Unit Owners other than the Developer refuse or fail to assume control.

10. AMENDMENT OF BYLAWS. Except as otherwise provided in the Declaration of Condominium as to amendments made by the Developer, these Bylaws may be amended in the following manner:

10.1 Proposal. Amendments to these Bylaws may be proposed by a majority of the Board or by petition to the Board signed by at least 20% of the Voting Interests of the Association.

10.2 Procedure. If an amendment to these Bylaws is so proposed, the proposed amendment shall be submitted to a vote of the Unit Owners not later than the next annual meeting for which proper notice can be given at the time the amendment is so proposed.

10.3 Vote Required. Except as otherwise provided by law or by these condominium documents, a proposed amendment shall be adopted if it is approved by at least 75% of the Voting Interests present in person or by proxy at any annual or special meeting called for that purpose at which a quorum is present, or without a meeting in accordance with Section 3.10 above, provided that notice of the proposed amendment is first given to the Unit Owners in accordance with law.

10.4 Certificate of Amendment; Recording; Effective Date. A copy of each adopted amendment shall be attached to a certificate attesting that the amendment was duly adopted, which certificate shall be signed by the President or Vice President of the Association with the formalities of a deed. The amendment shall be effective when the certificate, with a copy of the amendment attached, is recorded in the Public Records of Collier County, Florida. The certificate must identify the book and page of the Public Records where the Declaration of Condominium was originally recorded.

11. MISCELLANEOUS.

11.1 Number & Gender. Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires or admits.

11.2 Severability. Should any part of these Bylaws be declared void or become unenforceable, the remaining Bylaws shall remain in full force and effect.

11.3 Conflict. If any irreconcilable conflict or disagreement should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the interpretation of any provision of the Declaration of Condominium or Articles of Incorporation, the provision of the Declaration or Articles shall prevail over the provisions of these Bylaws.

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