

CERTIFICATE OF AMENDMENT

SECOND AMENDED AND RESTATED DECLARATION OF CONDOMINIUM

POINTE SANTO DE SANIBEL CONDOMINIUM II, A CONDOMINIUM

I HEREBY CERTIFY that the following amendment to the Second Amended and Restated Declaration of Condominium of Pointe Santo de Sanibel Condominium II, A Condominium was duly adopted by the Association membership at the duly noticed annual members' meeting of the Association on the 16th day of January, 2004. Said amendment was approved by a proper percentage of voting interests of the Association. The original Declaration of Condominium is recorded at O.R. Book 1192, Pages 1788 et seq., of the Public Records of Lee County, Florida. The Amended and Restated Declaration of Condominium is recorded at O.R. Book 1954, Pages 3507 et seq., of the Public Records of Lee County, Florida. The Second Amended and Restated Declaration of Condominium is recorded at O.R. Book 2822, Pages 0695 et seq., of the Public Records of Lee County, Florida.

Additions indicated by underlining.
Deletions indicated by ~~striking through~~.

Amendment No. 1: Articles 13 and 14, Second Amended and Restated Declaration of Condominium

13. INSURANCE. In order to adequately protect the Association and its members, insurance shall be carried and kept in force at all times in accordance with the following provisions:

13.1. By the Unit Owner. Each unit owner is responsible for insuring the contents of his own unit, and including the personal property therein; all floor, wall and ceiling coverings; all built-in cabinets, appliances, water heaters, air conditioning and heating equipment, and electrical fixtures water filters, countertops, window treatments (including curtains, drapes, blinds, hardware, and similar window treatment components) that are located within the unit and required to be repaired or replaced by the owner and all air conditioning compressors that service only an individual unit, whether or not located within the unit owner boundaries; and all alterations, additions and improvements made to the unit or the common elements by the owner or his predecessors in title. Each unit owner is expected to carry homeowner's insurance, with endorsements for leakage, seepage and wind-driven rain, additions and alterations, and loss assessment protection, or recognize that he bears financial responsibility for any damage to his property or liability to others that would otherwise be covered by such insurance, including coverage shortfalls occasioned by the Association's deductible. Unit Owners are also encouraged to consult with their personal advisors as to other types of coverage which may be available to insure risks affiliated with owning beachfront property. Without limitation, same includes the fact that if a Building or some portion thereof cannot be rebuilt, or cannot be re-built

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as originally constructed (for example, with less units), the insurance proceeds received by the Association, which are intended to recover re-building costs, may not provide compensation for loss of fair market value.

13.2. Association Insurance; Duty and Authority to Obtain. The Board of Directors shall obtain and keep in force the insurance coverage which it is required to carry by law and under the Condominium Documents, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The name of the insured shall be the Association and the unit owners without naming them, and their mortgagees, as their interests shall appear. To the extent permitted by law, the Association may self-insure. All policies of insurance obtained by the Association may include such deductibles determined appropriate by the Board of Directors.

13.3. Required Coverage. The Association shall maintain adequate insurance covering all of the Buildings, as defined in F.S. 718.111(11)(a)(2003), as amended from time to time, and the common elements as well as all Association property, in amounts determined annually by the Board of Directors, such insurance to afford the following protection:

- (A) Property. Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by what is commonly known as an “All Risk” property contract.
- (B) Flood. In amounts deemed adequate by the Board of Directors, as available through the National Flood Insurance Program.
- (C) Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors, with cross liability endorsement to cover liabilities of the unit owners as a group to a unit owner.
- (D) Automobile. Automobile liability for bodily injury and property damage for all owned and non-owned motor vehicles, in such limits of protection and with such coverage as may be determined by the Board of Directors.
- (E) Workers’ Compensation. The Association shall maintain Workers’ Compensation insurance on at least a minimum premium basis, and as required by law.
- (F) Statutory Fidelity Bond. The Association shall maintain a fidelity bond in an amount of not less than ~~\$50,000.00 per director, officer, or employee having access to Association funds~~ the amounts set forth in Section 718.111(11)(d), Florida Statutes, as amended from time to time.

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(G) Directors and Officers' Liability Insurance. The Association shall maintain directors and officers' liability insurance in the minimum amount of one million dollars, providing coverage to the Association's Officers and Directors.

13.4. Optional Coverage. The Association may purchase and carry other such insurance coverage as the Board of Directors may determine to be in the best interest of the Association and unit owners.

13.5. Description of Coverage. A detailed summary of the coverages included in the master policies, and copies of the master policies, shall be available for inspection by unit owners or their authorized representatives upon request.

13.6. Waiver of Subrogation. If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogation as to any claims against the Association unit owners, or their respective servants, agents or guests, except for any claim based upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

13.7. Insurance Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, the units owners and their mortgagees as their interests may appear, and all proceeds from policies purchased by the Association. The duty of the Association shall be to receive such proceeds as are paid, and to hold the same in trust, and disburse them for the purposes stated herein and for the benefit of the unit owners and their respective mortgagees in the following shares:

- (A) Common Elements. Proceeds on account of damage to common elements shall be held in as many undivided shares as there are units in Pointe Santo de Sanibel Condominium and Pointe Santo de Sanibel Condominium II.
- (B) Units. Proceeds on account of damage within the units shall be held in prorated shares, based on an amount of damage within each damaged unit as a percentage of the total damage within all one hundred and forty-one (141) units, less the deductible.
- (C) Mortgagee. If a mortgagee endorsement has been issued as to a unit, the shares of the mortgagee and the unit owner shall be as their interests appear. In no event shall any mortgagee have the right to demand application of insurance proceeds to any mortgage or mortgages which it may hold against unit or units, except when the funds are not used for repairs or to the extent that insurance proceeds exceed the actual cost of repair or restoration of the damaged building or buildings. Except as otherwise expressly provided, no mortgagee shall have any right to

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participate in determining whether improvements will be restored after casualty.

13.8. Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the unit owners in the following manner:

- (A) Costs of Protecting and Preserving the Property. If a person other than the person responsible for repair and reconstruction has advanced funds to preserve and protect the property to prevent further damage or deterioration, the funds so advanced shall first be repaid, with interest if required.
- (B) Cost of Reconstruction or Repair. If the damage for which the proceeds are paid is to be reconstructed or repaired by the Association, the remaining proceeds shall be paid to defray the costs thereof. Any proceeds remaining after defraying costs shall be distributed to the unit owners and their mortgagees, remittances being paid jointly to them.
- (C) Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided herein that the damages for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the unit owners and their mortgagees, remittances being payable jointly to them.

13.9. Association as Agent. The Association is hereby irrevocably appointed as agent for each unit owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the Condominium property.

14. RECONSTRUCTION OR REPAIR AFTER CASUALTY: If any part of the Condominium property of Pointe Santo de Sanibel Condominium or Pointe Santo de Sanibel Condominium II is damaged by casualty, whether and how it shall be reconstructed or repaired shall be determined as follows:

14.1. Damage to Units. Where loss or damage occurs within one or more units, any Association insurance proceeds on account of the loss or damage shall be distributed to the owner(s) of the damaged unit(s) in shares as provided in Section 13.7 above. The owner(s) of the damaged unit(s) shall be responsible for reconstruction and repair, and shall bear the burden of the deductible in the same shares as they received the benefits of the Association's coverage unless legal impossibility precludes reconstruction and repair in which case the affected unit owners retain the proceeds. When a unit is to be repaired, the Association may require that the Unit Owner contract for the reconstruction of the unit and that proceeds of insurance be distributed to the contractor in connection with such repair.

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14.2. Damage to Common Elements – Less than “Very Substantial”. Where loss or damage occurs to the common elements, but the loss is less than “very substantial”, as hereinafter defined, it shall be mandatory for the Association to repair, restore and rebuild the damage caused by the loss, and the following procedures shall apply:

- (A) The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of repair and restoration, and shall negotiate and contract for repair and reconstruction or substitution therefor where legal impossibility prevents repair and reconstruction.
- (B) If the proceeds of insurance and available reserves are insufficient to pay for the cost of repair and reconstruction of the common elements of either Pointe Santo de Sanibel or Pointe Santo de Sanibel Condominium II, the Association shall promptly, upon determination of the deficiency, levy a special assessment against all unit owners in proportion to their shares in the common elements for the deficiency. Such special assessments need not be approved by the unit owners. The proceeds from the special assessment shall be added to the funds available for repair and restoration of the property.
- (C) If reconstruction of the same number and general type of unit is not permitted by law, a membership meeting shall be called by the Board of Directors within sixty (60) days after the casualty. If, in the sole judgment of the Board, a meeting cannot be called within said sixty (60) days due to exigencies affiliated with natural disasters, the Board may postpone the call of the meeting, but in no event later than one hundred eighty days from the date of the casualty. The Condominium shall continue at a reduced number of units unless two-thirds (2/3) of the entire voting interests of the Association shall vote for termination.

14.3. “Very Substantial” Damage. As used in this Declaration, the terms “very substantial” damage shall mean loss or damage caused by a common occurrence whereby at least two-thirds (2/3) of the units in Pointe Santo de Sanibel Condominium and two-thirds (2/3) of the units in Pointe Santo de Sanibel Condominium II cannot reasonably be rendered habitable within ninety (90) days. Should such “very substantial” damage occur then:

- (A) The Board of Directors and the officers, or any of them, are authorized, regardless of any other provision of this Declaration, to take such action as may reasonably appear to be necessary under emergency conditions to evacuate or shore-up structures and salvage property, to engage security to protect against looting or other criminal acts, and to alter the Condominium property or Association property as might be reasonable under the circumstances to protect the Condominium property or

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Association property from further damage or deterioration. This authority includes the authority to expend any and all available Association funds.

- (B) The Board of Directors shall endeavor to obtain comprehensive, detailed estimates of the cost of repair and restoration.
- (C) A membership meeting shall be called by the Board of Directors to be held not later than sixty (60) days after the Board has obtained the estimates, to determine the ~~opinion~~ decision of the Association membership with reference to rebuilding or termination of the Condominium, subject to the following. If, in the sole judgment of the Board, a meeting cannot be called within said sixty (60) days due to exigencies affiliated with natural disasters, the Board may postpone the call of the meeting, but in no event later than one hundred eighty days from the date of receipt of the estimate.
 - (1) If the insurance proceeds, reserves and other Association funds available for the restoration and repairs that are the Association's responsibility are sufficient to cover the estimated cost thereof so that it is reasonably anticipated that the repairs and reconstruction can be accomplished with a special assessment not exceeding fifteen percent (15%) of the total annual budget for the year in which the casualty occurred, then the Condominium shall be restored or repaired unless two-thirds (2/3) of the total voting interests vote for termination, in which case the Condominium shall be terminated.
 - (2) If reconstruction of the same number and general types of units is not permitted by law, or if the insurance proceeds, reserves and other Association funds available for restoration and repair are not sufficient to cover the estimated cost thereof so that it is reasonably anticipated that the repairs and reconstruction can only be accomplished by levying special assessments exceeding fifteen percent (15%) of the total annual budget for the year in which the casualty occurred, then unless two-thirds (2/3) of the total voting interests vote in favor of any such special assessment and against termination of the Condominium, it shall be terminated and the property removed from the provisions of the Condominium Act. If the requisite number of unit owners approve reconstruction, the Board of Directors shall levy such assessments as are necessary and shall proceed to negotiate and contract for necessary repairs and restoration. The proceeds from the special assessments shall be added to the funds available for repair and restoration of the property.

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- (D) If any dispute shall arise as to whether "very substantial" damage has occurred, or as to the amount of special assessments required, a determination approved by at least two-thirds (2/3) of the Board of Directors shall be conclusive, and shall be binding upon all unit owners.

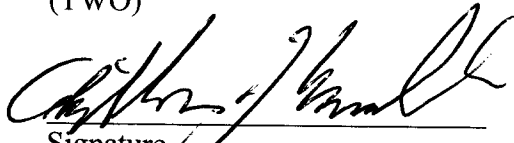
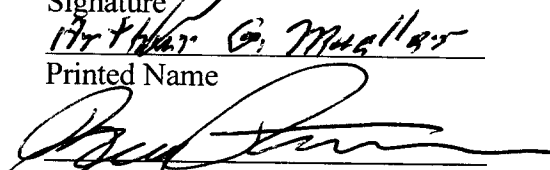
14.4. Application of Insurance Proceeds. It shall always be presumed that monies disbursed for repair and restoration come first from insurance proceeds; if there is a balance left in the insurance proceeds held by the Association after the payment of all costs of repair and restoration, such balance shall be distributed to the unit owners in Pointe Santo de Sanibel Condominium II, except as otherwise provided in Section 13.8(C) above.

14.5. Equitable Relief. In the event of damage to the common elements which renders any unit uninhabitable, and the damage is not repaired, reconstructed, or rebuilt within a reasonable period of time, the owner of the uninhabitable unit may petition a court for equitable relief, which may include a termination of the Condominium and a partition. For the purposes of this provision, it shall be conclusively presumed that repair, reconstruction or rebuilding has occurred within a reasonable period of time if substantial work is commenced within six (6) months following the damage or destruction, and is completed within nine (9) months after such six (6) months period.

14.6 Plans and Specifications. Any reconstruction or repairs must be substantially in accordance with the plans and specifications of the original buildings, or according to different plans and specifications approved by the Board of Directors, by the owners of at least three-fourths (3/4ths) of the units, and by the Primary Institutional Mortgagee, if any. Such approvals may not be unreasonably withheld. However, no charge in plans and specifications shall materially reduce the interior floor space of any unit without the consent of the unit owner and his institutional mortgagee, if any.

WITNESSES:
(TWO)

POINTE SANTO DE SANIBEL CONDOMINIUM
ASSOCIATION, INC.


Signature
Christopher J. Marshall
Printed Name

Signature
Bruce Peterson
Printed Name

BY: Lee B. Olson
Lee B. Olson, President

Date: 12/22/04

(CORPORATE SEAL)

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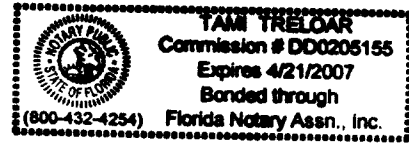
STATE OF FLORIDA)
) SS:
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 22 day of January, 2004 by Lee B. Olson as President of Pointe Santo de Sanibel Condominium Association, Inc., a Florida Corporation, on behalf of the corporation. He is personally known to me or has produced (type of identification) _____ as identification and did take an oath.

Tami Treloar
Notary Public
Tami Treloar
Printed Name

My commission expires: 4/21/07

227653_1.DOC



CERTIFICATE OF AMENDMENT

SECOND AMENDED AND RESTATED DECLARATION OF CONDOMINIUM

POINTE SANTO DE SANIBEL CONDOMINIUM, A CONDOMINIUM

I HEREBY CERTIFY that the following amendment to the Second Amended and Restated Declaration of Condominium of Pointe Santo de Sanibel Condominium, A Condominium was duly adopted by the Association membership at the duly noticed annual members' meeting of the Association on the 16th day of January, 2004. Said amendment was approved by a proper percentage of voting interests of the Association. The original Declaration of Condominium is recorded at O.R. Book 1084, Pages 2108 et seq., of the Public Records of Lee County, Florida. The Amended and Restated Declaration of Condominium is recorded at O.R. Book 1954, Pages 3459 et seq., of the Public Records of Lee County, Florida. The Second Amended and Restated Declaration of Condominium is recorded at O.R. Book 2822, Pages 0747 et seq., of the Public Records of Lee County, Florida.

Additions indicated by underlining.

Deletions indicated by ~~striking through~~.

Amendment No. 1: Articles 13 and 14, Second Amended and Restated Declaration of Condominium

13. INSURANCE. In order to adequately protect the Association and its members, insurance shall be carried and kept in force at all times in accordance with the following provisions:

13.1. By the Unit Owner. Each unit owner is responsible for insuring the contents of his own unit, and including the personal property therein; all floor, wall and ceiling coverings; all built-in cabinets, appliances, water heaters, air conditioning and heating equipment, and electrical fixtures water filters, countertops, window treatments (including curtains, drapes, blinds, hardware, and similar window treatment components) that are located within the unit and required to be repaired or replaced by the owner and all air conditioning compressors that service only an individual unit, whether or not located within the unit owner boundaries; and all alterations, additions and improvements made to the unit or the common elements by the owner or his predecessors in title. Each unit owner is expected to carry homeowner's insurance, with endorsements for leakage, seepage and wind-driven rain, additions and alterations, and loss assessment protection, or recognize that he bears financial responsibility for any damage to his property or liability to others that would otherwise be covered by such insurance, including coverage shortfalls occasioned by the Association's deductible. Unit Owners are also encouraged to consult with their personal advisors as to other types of coverage which may be available to insure risks affiliated with owning beachfront property. Without limitation, same includes the fact that if a Building or some portion thereof cannot be rebuilt, or cannot be re-built

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CHARLIE GREEN, CLERK OF COURT, LEE COUNTY, FLORIDA
REC FEE 37.50
DEPUTY CLERK

as originally constructed (for example, with less units), the insurance proceeds received by the Association, which are intended to recover re-building costs, may not provide compensation for loss of fair market value.

13.2. Association Insurance; Duty and Authority to Obtain. The Board of Directors shall obtain and keep in force the insurance coverage which it is required to carry by law and under the Condominium Documents, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The name of the insured shall be the Association and the unit owners without naming them, and their mortgagees, as their interests shall appear. To the extent permitted by law, the Association may self-insure. All policies of insurance obtained by the Association may include such deductibles determined appropriate by the Board of Directors.

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- (A) Property. Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by what is commonly known as an “All Risk” property contract.
- (B) Flood. In amounts deemed adequate by the Board of Directors, as available through the National Flood Insurance Program.
- (C) Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors, with cross liability endorsement to cover liabilities of the unit owners as a group to a unit owner.
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13.5. Description of Coverage. A detailed summary of the coverages included in the master policies, and copies of the master policies, shall be available for inspection by unit owners or their authorized representatives upon request.

13.6. Waiver of Subrogation. If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogation as to any claims against the Association unit owners, or their respective servants, agents or guests, except for any claim based upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

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- (A) Common Elements. Proceeds on account of damage to common elements shall be held in as many undivided shares as there are units in Pointe Santo de Sanibel Condominium and Pointe Santo de Sanibel Condominium.
- (B) Units. Proceeds on account of damage within the units shall be held in prorated shares, based on an amount of damage within each damaged unit as a percentage of the total damage within all one hundred and forty-one (141) units, less the deductible.
- (C) Mortgagee. If a mortgagee endorsement has been issued as to a unit, the shares of the mortgagee and the unit owner shall be as their interests appear. In no event shall any mortgagee have the right to demand application of insurance proceeds to any mortgage or mortgages which it may hold against unit or units, except when the funds are not used for repairs or to the extent that insurance proceeds exceed the actual cost of repair or restoration of the damaged building or buildings. Except as otherwise expressly provided, no mortgagee shall have any right to

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- (B) Cost of Reconstruction or Repair. If the damage for which the proceeds are paid is to be reconstructed or repaired by the Association, the remaining proceeds shall be paid to defray the costs thereof. Any proceeds remaining after defraying costs shall be distributed to the unit owners and their mortgagees, remittances being paid jointly to them.
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- (A) The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of repair and restoration, and shall negotiate and contract for repair and reconstruction or substitution therefor where legal impossibility prevents repair and reconstruction.
- (B) If the proceeds of insurance and available reserves are insufficient to pay for the cost of repair and reconstruction of the common elements of either Pointe Santo de Sanibel or Pointe Santo de Sanibel Condominium II, the Association shall promptly, upon determination of the deficiency, levy a special assessment against all unit owners in proportion to their shares in the common elements for the deficiency. Such special assessments need not be approved by the unit owners. The proceeds from the special assessment shall be added to the funds available for repair and restoration of the property.
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- (B) The Board of Directors shall endeavor to obtain comprehensive, detailed estimates of the cost of repair and restoration.
- (C) A membership meeting shall be called by the Board of Directors to be held not later than sixty (60) days after the Board has obtained the estimates, to determine the ~~opinion~~ decision of the Association membership with reference to rebuilding or termination of the Condominium, subject to the following. If, in the sole judgment of the Board, a meeting cannot be called within said sixty (60) days due to exigencies affiliated with natural disasters, the Board may postpone the call of the meeting, but in no event later than one hundred eighty days from the date of receipt of the estimate.
 - (1) If the insurance proceeds, reserves and other Association funds available for the restoration and repairs that are the Association's responsibility are sufficient to cover the estimated cost thereof so that it is reasonably anticipated that the repairs and reconstruction can be accomplished with a special assessment not exceeding fifteen percent (15%) of the total annual budget for the year in which the casualty occurred, then the Condominium shall be restored or repaired unless two-thirds (2/3) of the total voting interests vote for termination, in which case the Condominium shall be terminated.
 - (2) If reconstruction of the same number and general types of units is not permitted by law, or if the insurance proceeds, reserves and other Association funds available for restoration and repair are not sufficient to cover the estimated cost thereof so that it is reasonably anticipated that the repairs and reconstruction can only be accomplished by levying special assessments exceeding fifteen percent (15%) of the total annual budget for the year in which the casualty occurred, then unless two-thirds (2/3) of the total voting interests vote in favor of any such special assessment and against termination of the Condominium, it shall be terminated and the property removed from the provisions of the Condominium Act. If the requisite number of unit owners approve reconstruction, the Board of Directors shall levy such assessments as are necessary and shall proceed to negotiate and contract for necessary repairs and restoration. The proceeds from the special assessments shall be added to the funds available for repair and restoration of the property.

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- (D) If any dispute shall arise as to whether "very substantial" damage has occurred, or as to the amount of special assessments required, a determination approved by at least two-thirds (2/3) of the Board of Directors shall be conclusive, and shall be binding upon all unit owners.

14.4. Application of Insurance Proceeds. It shall always be presumed that monies disbursed for repair and restoration come first from insurance proceeds; if there is a balance left in the insurance proceeds held by the Association after the payment of all costs of repair and restoration, such balance shall be distributed to the unit owners in Pointe Santo de Sanibel Condominium II, except as otherwise provided in Section 13.8(C) above.

14.5. Equitable Relief. In the event of damage to the common elements which renders any unit uninhabitable, and the damage is not repaired, reconstructed, or rebuilt within a reasonable period of time, the owner of the uninhabitable unit may petition a court for equitable relief, which may include a termination of the Condominium and a partition. For the purposes of this provision, it shall be conclusively presumed that repair, reconstruction or rebuilding has occurred within a reasonable period of time if substantial work is commenced within six (6) months following the damage or destruction, and is completed within nine (9) months after such six (6) months period.

14.6 Plans and Specifications. Any reconstruction or repairs must be substantially in accordance with the plans and specifications of the original buildings, or according to different plans and specifications approved by the Board of Directors, by the owners of at least three-fourths (3/4ths) of the units, and by the Primary Institutional Mortgagee, if any. Such approvals may not be unreasonably withheld. However, no charge in plans and specifications shall materially reduce the interior floor space of any unit without the consent of the unit owner and his institutional mortgagee, if any.

WITNESSES:
(TWO)

Signature

Printed Name

Signature

Printed Name

POINTE SANTO DE SANIBEL CONDOMINIUM
ASSOCIATION, INC.

BY:

Lee B. Olson, President

Date:

(CORPORATE SEAL)

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STATE OF FLORIDA)
) SS:
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 22 day of January, 2004 by Lee B. Olson as President of Pointe Santo de Sanibel Condominium Association, Inc., a Florida Corporation, on behalf of the corporation. He is personally known to me or has produced (type of identification) _____ as identification and did take an oath.

Tami Treloar
Notary Public
Tami Treloar
Printed Name

My commission expires: 4/21/07

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