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CERTIFICATE OF AMENDMENT TO THE
AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF
SANIBEL ARMS WEST CONDOMINIUM

WHEREAS, the Amended and Restated Declaration of Condominium of Sanibel Arms West Condominium ("Declaration") was recorded on December 12, 2000 in Official Record Book 3337, Page 3086, Public Records of Lee County, Florida;

WHEREAS, Section 15 of the Declaration provides that the Declaration may be amended by the vote of not less than fifty percent (50%) plus one of the units whose voting interests are present and voting in person or by proxy at a meeting;

WHEREAS, on the 10th day of APRIL, 2006 at least fifty percent (50%) plus one of the units were present and voting in person or by proxy at a meeting and did approve the amendments contained in Exhibit "A" to this Certificate;

WHEREAS, the amendments to the Declaration shall be filed and recorded in the Public Records of Lee County, Florida.

NOW THEREFORE, the Amended and Restated Declaration of Condominium of Sanibel Arms West Condominium is hereby amended in the particulars as stated in Exhibit "A" attached hereto; the amendments shall run with the real property known as Sanibel Arms West, a Condominium, and shall be binding on all parties having any right, title or interest in the said real property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof; and except as otherwise amended hereby, the Declaration shall remain unchanged and in full force and effect.

CERTIFICATE OF ADOPTION OF AMENDMENTS

WE HEREBY CERTIFY that the attached amendments were duly adopted as amendments to the above-referenced Amended and Restated Declaration of Condominium; and the required percentage of the owners' votes did approve same.

DATED this 24th day of APRIL, 2006.

SANIBEL ARMS WEST CONDOMINIUM
ASSOCIATION, INC.

By: 

Print Name: Elmer Brown
Title: President

Attest

By: 

Print Name: Dan La Cava
Title: Secretary

[CORPORATE SEAL]

STATE OF FLORIDA)
) SS:
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 24 day of APRIL, 2006, by Elmer Brown, as President of SANIBEL ARMS WEST CONDOMINIUM, a Florida corporation not-for-profit, on behalf of the corporation, (X) who is personally known to me OR () who produced _____ as identification.



[NOTARY SEAL]

Steven J. Snyder
Notary Signature

STEVEN J SNYDER
Print Notary Name

NOTARY PUBLIC
State of Florida

My Commission Expires:

STATE OF FLORIDA)
) SS:
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 24 day of APRIL, 2006, by Dan La Cava, as Secretary of SANIBEL ARMS WEST CONDOMINIUM, a Florida corporation not-for-profit, on behalf of the corporation, (✓) who is personally known to me OR () who produced _____ as identification.



[NOTARY SEAL]

Steven J. Snyder
Notary Signature

Print Notary Name

NOTARY PUBLIC
State of Florida

My Commission Expires:

EXHIBIT "A"

**AMENDMENTS TO THE AMENDED AND RESTATED DECLARATION
OF CONDOMINIUM OF SANIBEL ARMS WEST CONDOMINIUM**

As used herein the following shall apply:

- A. Words in the text are lined through (---) indicate deletions from the present text.
 - B. Words in the text which are underlined indicate additions to the present text.
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- 1. Section 12.6 of the Declaration shall be amended to provide as follows:

12.6 ~~PETS - TENANTS AND GUESTS~~ - No animal, bird or reptile of any kind will be raised, bred or kept in any unit or on any common area by any person, unit owner, occupant, tenant, guest, licensee or invitee. However, a handicapped person may keep a trained animal. "Handicapped" shall have the same meaning as that given under the Fair Housing Amendments Act of 1988. "Trained animal" shall mean the animal shall have discernable skills that will enhance the owner's quality of life by discernibly alleviating the effect(s) of the alleged handicap by working for the benefit of the disabled person. If a Unit Owner, occupant, tenant, guest, person, licensee or invitee seeks the sole exemption to this pet restriction, prior to keeping a trained animal on the premises, he or she must notify the Association via certified mail including in such notice (1) reasonable evidence that the animal is properly trained, (2) written confirmation of the formal assertion of the trainer that the animal has been so trained, and (3) a written statement from a licensed physician specializing in the field of the subject disability certifying that the alleged service animal is necessary to ameliorate the effects of the disabled person's disability. The Association shall either grant or deny the request for exemption within fourteen days of receipt of such notice including the required information set forth herein, or may request such further information as reasonably necessary to evaluate the request for exemption. No such animal shall be brought on the premises without advance written approval from the Association. If the Association shall deny the request, the Association shall set forth the reasons for denial. Should permission be granted, the owner of the trained animal shall indemnify, defend and hold harmless the Association from any claims or liabilities arising from the presence of the trained animal on the Association Property. Pets shall be regulated in the Rules and Regulations.

2. Section 12.7 of the Declaration shall be amended to provide as follows:

12.7 - EXCLUSIVE USE - COMMON FACILITIES - The Association may provide exclusive use to Unit Owners, ~~(but not tenants or guests)~~ for appropriate temporary periods of time those portions of the Condominium Property such as a party room for exclusive use for private functions. The Unit Owners, tenants or guests requesting exclusive use of the appropriate portions of the Condominium Property shall agree in writing to indemnify, defend and save the Association harmless from and against any and all claims or causes of action and from any and all loss, harm, cost and/or damages.

NOTICE: EXCEPT AS AMENDED ABOVE, THE AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF SANIBEL ARMS WEST CONDOMINIUM SHALL REMAIN UNCHANGED AND IN FULL FORCE AND EFFECT. THE AMENDMENTS SHALL BE EFFECTIVE WHEN RECORDED IN THE PUBLIC RECORDS.

**CERTIFICATE OF AMENDMENT TO THE
DECLARATION OF CONDOMINIUM AND BYLAWS OF
SANIBEL ARMS WEST CONDOMINIUM AND
SANIBEL ARMS WEST CONDOMINIUM ASSOCIATION, INC.**

WE HEREBY CERTIFY that the Amended and Restated Declaration of Condominium of Sanibel Arms West Condominium and the Amended and Restated Bylaws of Sanibel Arms West Condominium Association, Inc., attached hereto, passed in accordance with the necessary affirmative votes to pass the Amendments as required by THE DECLARATION OF CONDOMINIUM OF THE ASSOCIATION, INC. and that as a result of the foregoing, and proper notice having been given, the said Amendments have been duly adopted.

IN WITNESS WHEREOF, THIS CERTIFICATE OF AMENDMENT is executed this 11th day of December, 2000.

WITNESSES:

(Sign) Richard M. Spina

(Print) Richard M. Spina

(Sign) David K. Foster

(Print) David K. Foster

**SANIBEL ARMS WEST CONDOMINIUM
ASSOCIATION, INC.**

By: Elmer Brown
Elmer Brown, President

Attest:

By: Dan LaCava
Dan LaCava, Secretary

INSTA # 5020998 OR BK 3337 PG 3086 RECD 12/12/00 08:56 AM
CHARLIE GREEN, CLERK OF COURT, LEE COUNTY
DEPUTY CLERK K CARTWRIGHT

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 11th day of December, 2000, by Elmer Brown as President of Sanibel Arms West Condominium Association, Inc., a Florida non-profit corporation, on behalf of said corporation. He is personally known to me or has produced _____ as identification.

Notary Public:

David K. Fowler



David K. Fowler
MY COMMISSION # CC843837 EXPIRES
June 14, 2001
BONDED THRU TROY FAIR INSURANCE, INC.

(Type/Print Name of Notary)

Commission No: _____

**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF
SANIBEL ARMS WEST CONDOMINIUM**

*SUBSTANTIAL REWORDING OF DECLARATION
SEE ORIGINAL DECLARATION FOR ORIGINAL TEXT*

1. **RECITAL** - This Condominium was established by Declaration of Condominium dated June 14, 1972, recorded August 8, 1972, OR Book 841, Pg. 619 Public Records of Lee County, Florida (the "Original Declaration"). Submission and easements therein created remain effective as do the Condominium plot plan and amendments thereto and the Surveyor's Certificates. Except as to the provisions noted, this Declaration supercedes and replaces the original.
2. **NAME** - The Condominium shall be known as SANIBEL ARMS WEST, A Condominium. The name of the Condominium Association which administers this Condominium is SANIBEL ARMS WEST CONDOMINIUM ASSOCIATION, INC. a Florida non-profit organization.
3. **PROPERTY** - The Condominium consists of 104 residential units in multiple buildings and associated improvements located on the property described as follows:

Commencing at the intersection of Centerlines of State Road 867 and Lindgren Boulevard, as recorded in the Plat of Shell Harbor, Plat Book 23, Page 79, Lee County Records; thence South 1°33'13" West, 1449.44 feet; thence continue along centerline Lindgren Boulevard, South 0°44'51" East, 1171.51 feet, thence along the South right of way line of Gulf Drive North 58°46'09" East, 1202.85 feet to the point of beginning of the lands herein described; thence continue North 58°46'09" East, 290.58 feet to the point of curvature of a curve to the right, having for its elements, a radius of 1008.08 feet, a delta of 16°33'58" and an arc of 291.47 feet; thence along said arc, 291.47 feet to the point of tangency of said curve; thence South 31°13'51" East, 480.0 feet, more or less to the waters of the Gulf of Mexico; thence Westerly along said waters of the Gulf of Mexico 578 feet, more or less, to a point on a line which bears South 31°13'51" East from the point of beginning; thence North 31°13'51" West on a line which is 578.0 feet from the East property line, 480.0 feet, more or less, to the point of beginning;

and

Lot 117, Block 3, SHELL HARBOR FIRST ADDITION,
per plat in Plat Book 25 at Page 66, Lee County, Florida
Public Records.

4. **DEFINITIONS** - The terms used herein shall have the meanings stated in the Condominium Act (Florida Statutes, Chapter 718) and as follows, unless the context otherwise requires:
- 4.1 **ASSESSMENT** - The share of the funds required for the payment of Common Expenses which from time to time is assessed against a Unit Owner.
 - 4.2 **ASSOCIATION** - The corporation responsible for the operation of the Condominium for the benefit of all owners in the Condominium.
 - 4.3 **ASSOCIATION PROPERTY** - All property, real and personal, owned by the Association, including but not limited to the recreation parcels containing the swimming pool, boat dock and storage locker building, tennis courts and rental office.
 - 4.4 **BOARD OF DIRECTORS OR DIRECTORS OR BOARD** - The Board of Directors responsible for the administration of the Association.
 - 4.5 **CHARGE OR SPECIAL CHARGE** - The obligation of a Unit Owner to pay or reimburse money to the Association which cannot be secured as an assessment pursuant to applicable law, but which shall give rise to a cause of action against the Unit Owner pursuant to this Declaration.
 - 4.6 **COMMON ELEMENTS** - The portions of the property submitted to Condominium ownership as defined in the Condominium Act, including:
 - 4.6.1 Association or condominium property which is not included within the Units.
 - 4.6.2 All parts of the improvements which are not included within the Units.

- 4.6.3 Easements.
- 4.6.4 The property and installations for the furnishing of utilities and other services to more than one Unit or to the Common Elements, such as electricity, water, gas, and sewer.
- 4.7 **COMMON EXPENSES** - All expenses and assessments properly incurred by the Association for the Condominium and such expenses as may be declared to be common expenses by this Declaration or the Bylaws including but not limited to expenses of administration; expenses of maintenance, operation, repair or replacement of the common elements; and of the portion of the Units to be maintained by the Association. The cost of providing cable television under a bulk service contract shall be a common expense.
- 4.8 **COMMON SURPLUS** - The excess of all receipts of the Association over the Common Expenses.
- 4.9 **CONDOMINIUM DOCUMENTS** - This Declaration and its attached exhibits which set forth the nature of the property rights in the Condominium and the covenants running with the land which govern these rights. All the condominium documents shall be subject to the provisions of this Declaration and their order of precedence shall be as follows: (1) Declaration; (2) Corporate Charter; (3) Bylaws; (4) Rules and Regulations.
- 4.10 **CONDOMINIUM PARCEL** - A Unit together with the undivided share in the common elements which is appurtenant to the Unit.
- 4.11 **CONDOMINIUM PROPERTY** - The lands and personal property, both tangible and intangible, subject to condominium ownership, whether or not contiguous and all improvements thereon and all easements and rights appurtenant thereto.
- 4.12 **THE EXHIBITS TO THIS DECLARATION ARE AS FOLLOWS:**
- Exhibit A - The By-Laws of Sanibel Arms West Condominium (as amended and restated).
- Exhibit B - The Condominium Plot Plan, including the legal description of the property (as recorded with the Original Declaration

in Official Records Book 841 at pages 664-671 and amended in Official Records Book 885 at pages 782-783).

Exhibit C - Schedule of Percentage of Ownership by each Unit of the Common Elements (as recorded with the Original Declaration in Official Records Book 841 at page 675).

Exhibit D - The Association Charter

- 4.13 **GUEST** - Any person who is physically present in or occupies a Unit on a temporary basis at the invitation of the Unit Owner without the payment of consideration.
- 4.14 **INSTITUTIONAL FIRST MORTGAGEE** - The mortgagee (or its assignee) of a first mortgage upon a Condominium Parcel, which mortgagee is a bank, savings and loan association, mortgage banker, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, and any agency of the United States of America. The term also refers to any holder of a first mortgage against a Condominium Parcel which mortgage is guaranteed or insured, as evidenced by a recorded instrument by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America or by any other public or private corporation engaged in the business of guaranteeing or insuring residential first mortgage loans, and their successors and assigns.
- 4.15 **LEASE** - The grant by a Unit Owner of a temporary right of use of the Owner's Unit for a valuable consideration.
- 4.16 **OCCUPANT or OCCUPY** - When used in connection with a Unit, means any person who is physically present in a Unit on two or more consecutive days, including staying overnight.
- 4.17 **OPERATION** - The administration and management of the Condominium Property.
- 4.18 **PERSON** - An individual, corporation, trust or other legal entity capable of holding title to real property.
- 4.19 **SINGULAR, PLURAL, GENDER** - Whenever the context so permits, the use of the plural shall include the singular, the singular

the plural, and use of any gender shall be deemed to include all genders.

- 4.20 **UNIT** - A part of the Condominium Property which is subject to exclusive ownership as described in this Declaration.
- 4.21 **UNIT NUMBER** - The letter, number or combination thereof which is designated upon the Condominium Plot Plan and which is used as the identification of a Unit.
- 4.22 **UNIT OWNER** - The owner of a Condominium Parcel.
- 4.23 **VOTING INTEREST** - means the voting rights distributed to the Association members pursuant this Declaration and applicable law.

5. **UNITS SHALL BE CONSTITUTED AS FOLLOWS:**

- 5.1 **REAL PROPERTY** - Each Unit, together with space within it, and together with all appurtenances thereto shall, for all purposes, constitute a separate parcel of real property which may be owned in fee simple and which may be conveyed, transferred and encumbered in the same manner as any other parcel of real property, independently of all other parts of the property, subject only to the provisions of this Declaration and applicable laws.
- 5.2 **BOUNDARIES** - Each Unit shall be bounded as to both horizontal and vertical boundaries as shown on the surveyor or engineering plans, whether the same exist now or are created by construction, settlement or movement of the buildings, or permissible repairs, reconstruction or alterations. Said boundaries are intended to be as follows and shall be determined in the following manner:
 - 5.2.1 **HORIZONTAL BOUNDARIES:** the upper and lower boundaries of the Units shall be:
 - 5.2.1.1 **UPPER BOUNDARY** - The upper boundary of the Units next to the roof shall be the plane of the under surfaces of the chords of the roof trusses which serve as ceiling joists. The lower boundary of the Units next to the roof shall be common to the upper boundary of the ground floor Units.

- 5.2.1.2 **LOWER BOUNDARY** - The lower boundary of the ground floor Units shall be the undersurface of the concrete floor slab.
- 5.2.2 **VERTICAL BOUNDARIES:** The vertical boundaries shall be:
 - 5.2.2.1 **EXTERIOR BOUNDARIES:**
The exterior of the outside walls of the buildings except where there is attached to or in existence as a part of any building a balcony, terrace, canopy or other attachment serving only the Unit being bounded, in which event the boundaries shall be such as will include all such structures.
 - 5.2.2.2 **INTERIOR BOUNDARIES:** Where Units share a common or party wall, the boundary shall be the center line of such wall. Where Units abut common element areas such as a central corridor or elevator shaft, the boundary shall be the exterior of such interior Unit boundary wall.
- 5.3 **EXCLUSIVE USE** - Each Unit Owner shall have the exclusive use of his Unit.
- 5.4 **APPURTENANCES** - The ownership of each Unit shall include, and there shall pass as appurtenances thereto whether or not separately described, all of the right, title and interest of a Unit Owner in the Condominium Property which shall include, but not be limited to:
 - 5.4.1 **COMMON ELEMENTS** - an undivided share of the Common Elements, such undivided share to be that portion set forth hereinafter in Exhibit "D" attributable to the Unit conveyed by deed to the Unit Owner.
 - 5.4.2 **EASEMENTS** - for the benefit of the Unit.
 - 5.4.3 **ASSOCIATION MEMBERSHIP** and interests in funds and assets held by the Association.

5.4.4 **THE EXCLUSIVE USE** of the storage room which is denominated by number and assigned to the Unit by the Association.

PROVIDED, HOWEVER, that such appurtenances shall be subject to the easements for the benefit of other Units and the Association.

5.5 **EASEMENT TO AIR SPACE** - The appurtenances shall include an exclusive easement of the use of the air space occupied by the Unit as it exists at any particular time and as it may be altered or reconstructed from time to time, which easements shall be terminated automatically in any air space which is vacated from time to time.

5.6 **CROSS EASEMENTS** - shall include the following easements from each Unit Owner to each other Unit Owner and to the Association:

5.6.1 **INGRESS AND EGRESS** - Easements through the Common Elements for ingress and egress.

5.6.2 **MAINTENANCE, REPAIR AND REPLACEMENT** - Easements through the Units and Common Elements for maintenance, repair and replacement. Such access is to be only during reasonable hours except that access may be had at any time in case of emergency.

5.6.3 **UTILITIES** - Easements, through the Common Elements and Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of services to other Units and the Common Elements.

6. **MAINTENANCE RESPONSIBILITY:** The responsibility for maintenance of the Condominium shall be as follows:

6.1 **BY THE ASSOCIATION** - the Association shall maintain, repair and replace at the Association's expense the Common Elements and all portions of any Unit, including those portions of any Unit which contribute to the support of any building including, but not limited to, the perimeter walls, columns, roof, floors, wiring, piping, duct work and other mechanical, electrical or other installations or

equipment serving the Common Elements or more than one Unit, but exclusive of the items listed in Paragraph 6.2.

6.1.2 **NEGLIGENCE** - Provided that if the maintenance and repair and replacement of any of the Common Elements, the items in 6.1 above or of other Units shall be made necessary because of the negligence, act or omission of a Unit Owner, his family, lessees, invitees and guests, it shall be a liability of the Unit Owner. Such work may be done by the Association at the expense of the Unit Owner, and the cost shall be secured as a special assessment, Charge or Special Charge.

6.2 **BY THE UNIT OWNER** - The responsibility of the Unit Owner shall be as follows:

6.2.1 **SPECIFIC ITEMS** - To maintain repair and replace at his expense, all portions of the Unit except the portions to be maintained, repaired and replaced by the Association. The Unit Owner's responsibility specifically includes, but is not limited to, windows and glass panels, doors except exterior paint, interior wall, floor and ceiling surfaces, screens, frames, hardware, appliances, fixtures, switches, compressors, air handlers, air conditioner refrigerant lines and drains, wiring, piping, duct work, water heaters, and plumbing serving only the particular Unit, whether located inside or outside the Unit, and water heaters which shall be replaced no less frequently than each 7 years.

6.2.2 **NEGLIGENCE** - Provided that if the maintenance and repair and replacement of any portion of a unit which is the responsibility of the Unit Owner shall be made necessary because of the negligence, act or omission of the Association, another Unit Owner, including family, lessees, invitees and guests it shall be a liability of the Association or other Unit Owner as appropriate. Such work shall be done promptly by the responsible party, Association or other Unit Owner, at the expense of the responsible party.

6.2.3 **OWNER ALTERATION OF COMMON ELEMENTS RESTRICTED** - No Unit Owner shall

make any alteration in the portions of the improvements which are to be maintained by the Association or remove any portion thereof or make any additions thereto without the prior written approval of the Board of Directors. The Board shall have the authority to approve the proposed work, disapprove the work (in which event the work shall not be done) or to require modifications to the work and the Board's decision shall be determinative of the matter. No Unit Owner shall do any work which would jeopardize the safety or soundness of a building or impair any easements. Exterior radio and television antennas including satellite dishes are prohibited except to the extent permitted by applicable law. Such Board approved work is deemed not to constitute material alterations of substantial additions to the Common Elements.

7. **COMMON ELEMENTS**

- 7.1 **COMMON ELEMENTS** - The Common Elements in the Condominium shall be owned by the Unit Owners in undivided shares as set forth in the Original Declaration which states that each Unit is allocated 1/104 ownership interest in the common elements. The shares of the Unit Owner in the Common Elements are appurtenant to the unit owned by him. None of the appurtenances may be separated from the Unit to which they appertain, and all of the appurtenances shall be deemed to be conveyed, or encumbered or otherwise pass with the unit whether or not expressly mentioned or described in a conveyance of a Unit.
- 7.2 **NO PARTITION** - No action for partition of the Common Elements shall lie.
- 7.3 **USE** - Each Unit Owner and the Association shall be entitled to use the Common Elements in accordance with the purposes for which they are intended, but no such use shall hinder or encroach upon the lawful rights of other Unit Owners.
- 7.4 **MATERIAL ALTERATIONS AND ADDITIONS** - With the Consent of a majority (more than 50%) of the Unit Owners, the Board of Directors may alter, add to, relocate or improve Common Elements or Association Property except that a material alteration costing \$50,000 or less may be approved by the Board of Directors without consent of Unit Owners provided that Unit Owners are

notified of the material alteration prior to the alteration being made. This power includes the purchase, acquisition, sale, conveyance or mortgaging of such property. The Association, with the consent of a majority of Unit Owners, may grant exclusive permits, leases or license privileges for the use of Common Elements or Association Property to any person or entity including non-Unit Owners if it will benefit the members of the Association.

8. **FISCAL MANAGEMENT** - The fiscal management of the Condominium including budget fiscal year, charges, assessments and collection of assessments shall be as set forth herein and in the By-laws.
9. **ADMINISTRATIVE** - The administration of the Condominium shall be by the Board of Directors and its powers and duties shall be as set forth herein and in the By-laws.
10. **INSURANCE** - In order to adequately protect the Unit Owners, the Association, the Condominium Property and the Association Property required to be insured by the Association, insurance shall be carried and kept in force at all times in accordance with the following provisions:
 - 10.1 **DUTY AND AUTHORITY TO OBTAIN** - The Board of Directors shall use its best efforts to obtain and maintain adequate insurance. In all insurance purchased by the Association, the name of the insured shall be the Association and the Unit Owners and their mortgagees (without naming them), as their interests shall appear and shall provide for the issuance of certificates of insurance and mortgagee endorsements to any or all of the holders of institutional first mortgages.
 - 10.2 **BASIC INSURANCE** - Insurance shall cover the buildings and improvements as well as all Association Property, in an amount determined annually by the Board of Directors. Pursuant to the Condominium Act, the word "building" does not include floor coverings, wall coverings, ceiling coverings nor electrical fixtures, appliances, air conditioning or heating equipment, water heaters or built-in cabinets located within a Unit. Such insurance shall afford the following protection.
 - 10.2.1 **PROPERTY** - Replacement cost coverage for loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other

hazards covered by the standard "All Risks" property contract.

- 10.2.2 **FLOOD** - Up to the replacement cost for each building and insurable improvements as available from time to time.
- 10.2.3 **LIABILITY** - Premises and operations liability endorsements for bodily injury and property damage in such limits of protection and with such coverage as required by the Board of Directors of the Association, with cross liability endorsements to cover liabilities of the Unit Owners as a group to a Unit Owner.
- 10.2.4 **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 required by the Board of Directors of the Association.
- 10.2.5 **WORKERS' COMPENSATION** - Regardless of the number of employees, the Association shall maintain Workers' Compensation insurance on at least a minimum premium basis unless otherwise determined by the Board of Directors from time to time.
- 10.2.6 **FIDELITY BONDING** - 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 paragraph, 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.
- 10.2.7 **DIRECTORS AND OFFICERS LIABILITY INSURANCE** - The Association shall obtain and maintain adequate directors and officers liability insurance utilizing the broad form of policy coverage for

all directors and officers, past directors and officers and, if available, committee members of the Association.

- 10.2.8 **OPTIONAL COVERAGE** - The Association may purchase and carry such other insurance coverage as the Board of Directors may determine from time to time to be in the best interests of the Association and Unit Owners.
- 10.3 **DESCRIPTION OF COVERAGE** - A detailed summary of the coverage included in the master policies shall be available for inspection by Unit Owners upon request.
- 10.4 **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 rights to subrogation as to any claim against Unit Owners, the Association, or their respective servants, agents or guests.
- 10.5 **SHARES OF INSURANCE PROCEEDS** - All proceeds of insurance policies purchased by the Association shall be payable to the Association. The duty of the Association shall be to receive such proceeds and hold and disburse them for the purposes stated herein in the following shares:
 - 10.5.1 **COMMON ELEMENTS** - Proceeds on account of damage to common elements shall be held in as many undivided shares as there are Units, the shares of each Unit Owner being the same as his share in the Common Elements.
 - 10.5.2 **UNITS** - Proceeds on account of damage to Units shall be held in as many undivided shares as there are damaged Units, the share of each Unit Owner being in proportion to the cost of restoring the damage suffered by each Unit.
 - 10.5.3 **MORTGAGES** - 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 Units except to the extent that insurance proceeds exceed the actual costs of repair or restoration of the damaged improvements, and no

mortgagee shall have any right to participate in determining whether improvements will be restored after casualty. The Association shall pay all policy deductible amounts.

- 10.6 **DISTRIBUTION OF INSURANCE PROCEEDS** - Proceeds of insurance policies received by the Association shall be distributed for the benefit of the Unit Owners in the following manner:

10.6.1 **COST OF RECONSTRUCTION OR REPAIR** - If the damage for which the proceeds are paid is to be repaired or reconstructed by the Association, the proceeds shall be paid to defray the costs thereof. Any proceeds remaining after defraying costs shall be distributed to the Association, for the account of the Association.

10.6.2 **FAILURE TO RECONSTRUCT OR REPAIR** - If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds after expenses shall be distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of mortgagees and may be enforced by them.

- 10.7 **ASSOCIATION AS AGENT** - The Association is hereby irrevocably appointed agent for each Unit Owner to adjust all claims arising under insurance policies purchased by the Association.

11. **RECONSTRUCTION OR REPAIR AFTER CASUALTY** - If any part of the Condominium Property is damaged by casualty, whether and how it shall be reconstructed or repaired shall be determined as follows:

11.1 **DAMAGE TO UNITS** - Where loss or damage is only to those parts of a Unit for which the responsibility of maintenance and repair is that of the Unit Owner, any Association insurance proceeds on account of the damage, less the deductible, shall be distributed to such contractors, suppliers and personnel for work done, materials supplied or services required for reconstruction or repair. Payments shall be in such amounts and at such times as the Unit Owners may direct. The owners of damaged Units shall be responsible for reconstruction and repair and shall bear the cost thereof, if any, in excess of the insurance proceeds.

- 11.2 **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 or rebuild the damage caused by the loss, and the following procedures shall apply:
- 11.2.1 **ESTIMATES** - The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of reconstruction and repair, and shall negotiate and contract for the work.
- 11.2.2 **INSURANCE INSUFFICIENT** - If the net proceeds of insurance plus available reserves are insufficient to pay for the cost of reconstruction and repair of the Common Elements, the Association shall promptly, upon determination of the deficiency, levy a special assessment against all Unit Owners in the Condominium. Such special assessments need not be approved by the Unit Owners. The special assessments shall be added to the proceeds available for reconstruction and repair of the property.
- 11.2.3 **"VERY SUBSTANTIAL" DAMAGE** - As used in this Declaration, the term "very substantial" damage shall mean loss or damage whereby one-half (1/2) or more of the total Units are rendered uninhabitable. Should such very substantial damage occur, then:
- 11.2.3.1 **OWNERS' MEETING** - A meeting of the Association shall be called by the Board of Directors to be held within 90 days of the casualty. The purpose of the meeting shall be to determine the wishes of the voting interests in the Condominium with reference to reconstruction or termination of the Condominium, subject to the following:
- 11.2.3.1.1 **INSURANCE SUFFICIENT** - If the insurance proceeds and reserves available for reconstruction and repair are sufficient to cover the cost

thereof, so that no special assessment is required, then the Condominium Property shall be reconstructed or repaired unless the then applicable zoning or other regulatory laws will not allow reconstruction of the same general type of Units, in which case the Condominium shall be terminated pursuant to Section 16.

11.2.3.1.2

INSURANCE INSUFFICIENT -

If the insurance proceeds and reserves available for reconstruction and repair are not sufficient to cover the cost thereof so that a special assessment will be required, then unless fifty percent plus one of the voting interests of the Condominium vote in favor of such special assessment and against termination of the Condominium, it shall be terminated pursuant to Section 16. If fifty percent plus one of the voting interests of the Condominium approve the special assessment, the Association, through its Board, shall levy such assessment and shall proceed to negotiate and contract for such reconstruction and repairs. The special assessment shall be added to the proceeds of insurance and reserves available for reconstruction and repair of the property.

11.2.4

DISAGREEMENT - If any disagreement shall arise as to whether "very substantial" damage has occurred, a determination by the Board of Directors shall be binding upon all Unit Owners.

11.3

APPLICATION OF INSURANCE PROCEEDS - It shall be presumed that the first moneys disbursed for reconstruction and

repair shall be from the insurance proceeds and they shall first be applied to reconstruction of the Common Elements and then to the Units; if there is a balance in the funds held by the Association after the payment of all costs of reconstruction and repair, such balance shall be distributed to the Association for the account of the Association. Provided, however, if special assessments were made pursuant to Paragraph 11.2.3.1.2 hereof, then all of such balance shall be returned to the Unit Owners paying said assessments pro-rata, according to the amount each paid, up to the full amount each paid, then to the Association.

- 11.4 **EQUITABLE RELIEF** - In the event of significant damage to the Condominium Property, and if the Condominium Property is not reconstructed or repaired within a reasonable period of time, any Unit Owner 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 reconstruction or repair has occurred within a reasonable period of time if substantial work is commenced within such time following the damage or destruction as is determined by the Board of Directors to be reasonable and the work proceeds without intentional and unwarranted delay to completion.
- 11.5 **PLANS AND SPECIFICATIONS** - Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the original buildings, or in lieu thereof, according to plans and specifications approved by the Board of Directors and by a majority (more than 50%) of the voting interests of the Association.
- 12. **USE RESTRICTIONS** - The use of the Condominium Property shall be in accordance with the Rules and Regulations in effect and the following provisions:
 - 12.1 **LAWFUL USE** - All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair upon Condominium Property shall be the same as the responsibility for the repair and maintenance of the Condominium Property as previously stated in this Declaration.
 - 12.2 **RULES AND REGULATIONS** - The rules and regulations concerning the use of the Condominium Property including the Units may be amended from time to time by the Board of Directors.

Provided that by the vote of a plurality of the voting interests present at a meeting of the Unit Owners at which a quorum is present, the voting interests may cancel or amend a rule or regulation enacted by the Board. Copies of the Rules and Regulations and amendments thereto shall be furnished by the Association to all Unit Owners. No new or amended regulation may be enforced prior to distribution to the Unit Owners. Changes in the Rules and Regulations shall not require amendment of this Declaration and may, but need not be recorded in the Public Records.

- 12.3 **USE OF THE UNITS** is restricted to residential and vacation rental purposes only. Unregistered guests may be denied use of recreational facilities and amenities.
- 12.4 **ASSOCIATION'S ACCESS TO UNITS** - The Association has an irrevocable right of access to the Units during reasonable hours when necessary for the purpose of maintenance, repair and replacement of the Common Elements or of any portion of a Unit to be maintained by the Association pursuant to this Declaration or for making emergency repairs which are necessary to prevent damage to the Common Elements or to another Unit or Units. The Association's right of access to a Unit shall be exercised after reasonable notice to the Unit Owner, unless such notice is not possible or practical under the circumstances, and with due respect for the occupants' rights to privacy and freedom from unreasonable annoyance, as well as with reasonable precautions to protect the personal property within the Unit. The Association requires and shall retain a pass-key to all Units. No Unit Owner shall alter any lock, nor install a new lock, the effect of which would be to prevent access by the Association when the Unit is unoccupied, unless the Unit Owner provides the Association with a key.
- 12.5 **PARKING** - Each Unit Owner shall have the privilege of using unassigned parking spaces on a first come basis. The types of vehicles that may be parked in such spaces shall be as set forth in the Rules and Regulations.
- 12.6 **PETS - TENANTS AND GUESTS** - Pets shall be regulated in the Rules and Regulations.
- 12.7 **EXCLUSIVE USE - COMMON FACILITIES** - The Association may provide exclusive use to Unit Owners (but not tenants or guests) for appropriate temporary periods of time those portions of the

Condominium Property such as a party room for exclusive use for private functions.

- 12.8 **NUISANCES PROHIBITED** - Unit Owners and their tenants and invitees shall not engage in any practice, exhibit any behavior nor permit any condition to exist that shall, in the exclusive judgment of the Board of Directors, constitute a nuisance.
13. **SALE, LEASE, CONVEYANCE, DISPOSITION** - The purpose and object of this Section is to maintain a quiet, tranquil and family-oriented atmosphere with the residents living in compatible coexistence with other financially responsible persons who are of like mind and acceptable both in character and comportment. This objective is considered to be both important and justified because of the necessity of sharing facilities and because of the large personal financial investment of each Unit Owner. Therefore, the lease, conveyance and disposal of a Unit by any Unit Owner (subject to the exceptions provided in Paragraph 17.1) shall be subject to the following provisions.
 - 13.1 **SALE ASSOCIATION APPROVAL REQUIRED** - No owner may sell, give or dispose of a Unit or any interest therein in any manner without the written approval of the Association.
 - 13.2 **LEASES - RENTALS - ASSOCIATION APPROVAL NOT REQUIRED** - Leases and Rentals shall be in accordance with the Rules and Regulations and the following provisions. Only entire Units may be leased or rented. All leases and rental agreements must and shall be deemed to contain the agreement of the tenants to abide by all of the covenants of the Condominium Documents and must and shall be deemed to provide that a violation of the Condominium Documents is a breach and event of default of the lease or rental agreement and grounds for damages, termination and eviction and that the lessee and the Unit Owner agree that the Association may proceed directly against such lessee(s) or tenant(s) and that the lessee(s) or tenant(s) shall be responsible for the Association's costs and expenses, including attorney's fees, at all trial and appellate levels. If such costs and fees are not immediately paid by the lessee(s) or tenants(s), the Unit Owner shall pay them and such funds shall be secured as a charge. Each Unit Owner by acceptance of the deed to a Unit and by the terms of this Declaration appoints the Association as the Unit Owner's agent to bring actions in the Unit Owner's name and at the Unit Owner's expense including injunction, damages, termination and eviction. The rules and regulations must be provided to the lessee(s) or tenant(s) by or on the behalf of the

Unit Owner at or before the commencement of the lease term or rental.

13.3 **APPROVAL PROCEDURE** - The approval of the Association shall be obtained as follows:

13.3.1 **WRITTEN NOTICE** - Written notice shall be given the Association by the Unit Owner of his intention to sell or transfer in any fashion his interest in a Unit. The notice shall include the name and address of the proposed acquirer. The Association may require such other and further information as it deems reasonably necessary. The Association shall not approve any sale or transfer until such time as all unpaid assessments, late charges and all court costs and attorneys fees (if any) incurred by the Association and due and owing for the Unit have been paid.

13.3.2 **SALE** - The Association must, within 15 days after receipt of all the information required above, either approve the transaction, disapprove for cause, or, except in the case of disapproval for cause, upon the written demand of the Unit Owner, furnish an alternate purchaser it approves or the Association may itself elect to purchase, and the Unit Owner must sell to such alternate or to the Association upon the same terms or the Unit Owner may withdraw his proposed sale. In exercising its power of disapproval the Association must act reasonably and in a fair and non-discriminatory manner and withhold approval only for a reason or reasons rationally related to the protection, preservation and proper operation of the Condominium and the purposes as set forth in the first paragraph of this Section 13. Violations of paragraph 6.2.3 may also be cause for withholding of approval. If the Association fails or refuses within the allotted time to notify the Unit Owner of either approval or disapproval in writing, or if it fails to provide an alternate purchaser or make an election to purchase the Unit itself when required to do so, then the Association shall conclusively be presumed to have approved the transaction, and the Association shall, upon demand, provide a recordable certificate of approval.

- 13.3.3 **CLOSING DATE** - The sale shall be closed within sixty (60) days after an alternate purchaser has been furnished or the Association has elected to purchase.
- 13.3.4 **NOTICE OF DISAPPROVAL** - If the Association disapproves the proposed transaction (subject to the qualifications contained in Paragraph 13.3.2 regarding a sale) notice of disapproval shall be promptly sent in writing to the Unit Owner, and the transaction shall not be closed.
- 13.4 **NOTICE OF SUIT** - A Unit Owner shall give notice to the Association of every suit or other proceedings which may affect the title to his Unit, such notice to be given within five (5) days after the Unit Owner receives knowledge thereof.
- 13.5 **JUDICIAL SALES** - are exempt from this Section 13.
- 13.6 **UNAPPROVED TRANSACTIONS** - Any transaction which is not approved pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.
- 14. **COMPLIANCE AND DEFAULT** - Each Unit Owner, guest, lessee, tenant and other invitee shall be governed by, and shall comply with the provisions of, the Florida Condominium Act as amended from time to time, this Declaration, including its exhibits, the Association Charter, the Association Bylaws and Rules and Regulations.
 - 14.1 **REMEDIES** - Failure to comply shall be grounds for relief, which relief may include, but shall not be limited to, an action to recover damages or injunctive relief or both. Actions may be maintained by the Association or by any Unit Owner.
 - 14.2 **COSTS AND FEES** - In any such proceeding, including appeals, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorney fees.
 - 14.3 **OWNER COMPLAINTS - DISPUTES** - In the event of a complaint by a Unit Owner against the Association, the Board of Directors or a member thereof, such Unit Owner, prior to the institution of any proceedings, shall give written notice in detail of the complaint by Certified Mail to the Board of Directors. The Board shall respond in writing to the Unit Owner within 30 days of the receipt of the complaint. The Board's response shall either give a

substantive response, notify the complainant that a legal opinion has been requested, or notify the inquirer that advice has been requested from the Bureau of Condominiums. If the Board requests advice from the Bureau of Condominiums, the Board shall, within 10 days of receipt of the advice, provide in writing a substantive response to the complainant. If a legal opinion is requested, the Board shall, within 60 days of the receipt of the complaint, provide in writing a substantive response to the complainant. If unresolved, a dispute as defined in the Condominium Act must be arbitrated in mandatory non-binding arbitration proceedings prior to commencing litigation if required by the Condominium Act.

- 14.4 **NO WAIVER OF RIGHTS** - The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Condominium Documents shall not constitute a waiver of the right to do so thereafter as to subsequent or other instances.
15. **AMENDMENTS** - Amendments to the Declaration shall be in accordance with the following:
- 15.1 **REQUIREMENTS** - An amendment may be proposed either by a majority of the Board of Directors or by fifteen percent (15%) of the voting interests, and may be considered at any meeting of the Unit Owners, regular or special, of which due notice has been given according to the By-Laws, which notice includes notice of the substance of the proposed amendment. Passage shall be evidenced by a certificate executed in recordable form signed by the President or Vice President of the Association that it has been enacted by the affirmative vote of the required percentage of the voting interests (which vote may be evidenced by later written approval of voters not present), and the separate written joinder of mortgagees where required and shall include the recording data identifying the location of the Declaration as originally recorded and which shall become effective when recorded in the public records.
- 15.2 **CORRECTORY AMENDMENT** - Whenever it shall appear that there is a defect, error or omission in any of the Condominium Documents or in order to comply with required provisions of applicable laws or requirements of government agencies, the amendment may be adopted by the Board of Directors alone.

- 15.3 **REGULAR AMENDMENTS** - Amendments to this Declaration may be enacted by a favorable vote of the owners of fifty percent (50%) plus one of the voting interests in the Association.
- 15.4 **MORTGAGEE JOINDER** - Amendments materially affecting the rights or interests of mortgagees in the Condominium must have the approval of the holders of institutional first mortgages of record representing fifty percent plus one of the votes of Units subject to such mortgages who have requested the Association to notify them on any proposed action specified in this Section. Implied approval shall be assumed when such holder fails to submit a response to any written proposal for an amendment within 30 days after it receives proper notice of the proposal provided the notice was delivered certified or registered mail, with a "Return Receipt" requested. In the event that mortgagee consent is provided other than by properly recorded joinder, such consent shall be evidenced by affidavit of the Association and recorded in the Public Records of Lee County, Florida. A change to any of the following shall be considered as material:
- (i) Any change in the proportion or percentage by which the owner of the Unit shares the Common Expenses or owns the Common Surplus;
 - (ii) Reallocation of interests in the Common Elements, or rights to their use;
 - (iii) Redefinition of any Unit boundaries;
 - (iv) Convertibility of Units into Common Elements or vice versa;
 - (v) Expansion or contraction of the Condominium Property, or the addition, annexation, or withdrawal of property to or from the Condominium.
- 15.5 **WRITTEN AGREEMENTS** - Any approval of Unit Owners on any matter called for by this Declaration, its Exhibits or applicable law to be taken at a meeting of Unit Owners is hereby expressly allowed to be taken instead by written agreement, without a meeting (which agreement may be in counterparts), subject to the requirements of the Condominium Act.
16. **TERMINATION** - The Condominium may be terminated in the following manner:

- 16.1 **AGREEMENT** - The Condominium may be terminated at any time by approval, in writing, of seventy-five percent (75%) of the voting interests of the Condominium and the approval of the holders of institutional first mortgages of record representing 75% of the votes of Units subject to such mortgages who have requested notification. Mortgagee approval shall be as set forth in Paragraph 15.4.
- 16.2 **VERY SUBSTANTIAL DAMAGE** - If the Condominium, as a result of casualty, suffers "very substantial damage" and it is not decided as therein provided that it will be reconstructed or repaired, the Condominium form of ownership will thereby terminate without agreement.
- 16.3 **GENERAL PROVISIONS** - Upon termination, the former Unit Owners shall become the owners, as tenants in common, of all Condominium Property and of the assets of the Association. The shares of such tenants in common shall be the same as were their shares of the Common Elements. The mortgagee or lienor of a Unit Owner shall have a mortgage or lien solely and exclusively upon the undivided share of such tenant in common in and to the lands and other properties and rights which he may receive by reason of such termination. The termination of the Condominium shall be evidenced by a certificate of the Association executed by its President and Secretary certifying as to facts affecting the termination. Termination shall become effective when that certificate is recorded in the Public Records of Lee County, Florida.
- 16.4 **NEW CONDOMINIUM** - The termination of a Condominium does not bar creation of another Condominium affecting all or any portion of the same property.
- 16.5 **PARTITION; SALE** - Following termination, the Condominium Property may be partitioned and sold upon the application of any Unit Owner. Provided, however, that if following a termination, the owners of two-thirds (2/3rds) of the voting interests of the Condominium determine to accept an offer for the sale of the property, all Unit Owners shall be bound to execute deeds and other documents reasonably required to effect the sale. In such event, any action for partition of the property shall be held in abeyance pending the sale, and upon the consummation of the sale shall be discontinued by all parties thereto.

- 16.6 **BOARD AUTHORITY** - If the Condominium is terminated, the Board of Directors of the Association shall wind up the affairs of the Condominium.
- 16.7 **PROVISIONS SURVIVE TERMINATION** - The provisions of this Section 16 are covenants running with the land, and shall survive the termination of the Condominium until all matters covered by this Section have been completed.

17. **RIGHTS OF MORTGAGEES**

- 17.1 **EXCUSAL FROM APPROVAL TO OWN** - The holder of an institutional first mortgage which obtains title to a Unit through foreclosure or deed in lieu of foreclosure is not required to obtain the prior approval of the Association to own the Unit.
- 17.2 **RIGHTS TO INFORMATION** - Upon receipt by the Association from any institutional mortgagee, Guarantor or Insurer of a copy of the mortgage held by such mortgagee, Guarantor or Insurer on a Unit, together with a written request from such mortgagee or an Insurer or Guarantor of such mortgagee specifying the address to which the following items are to be sent, the Association shall timely send to such mortgagee, Insurer or Guarantor the following, and for which the Association may charge a reasonable fee.
- 17.2.1 **FINANCIAL STATEMENT** - A copy of a financial statement of the Association for the immediately preceding fiscal year.
- 17.2.2 **INSURANCE CANCELLATION** - Written notice of the cancellation or termination by the Association of any policies of insurance covering the Condominium Property, Association Property, common areas or any improvements thereon, or any fidelity bonds of the Association.
- 17.2.3 **DAMAGE TO CONDOMINIUM** - Written notice of substantial damage or destruction to the improvements located on the Condominium's Common Elements which affects a material portion of the Condominium or the Unit securing its mortgage.

17.2.4 **EMINENT DOMAIN** - Written notice of condemnation or eminent domain proceeding affecting a material portion of the Condominium or the Unit securing its mortgage.

17.2.5 **DELINQUENT ASSESSMENTS** - Written notice of failure by a Unit Owner whose Unit is encumbered by a first mortgage held by such institutional mortgagee, Guarantor or Insurer to pay any Assessments where such failure or delinquency has continued for a period of sixty (60) days.

17.2.6 **FAILURE TO NOTIFY** - The failure of the Association to send any such notice to any such mortgagee, Guarantor or Insurer shall have no effect on any meeting, act or thing which was to have been the subject of such notice nor affect the validity thereof.

18. **ENFORCEMENT OF ASSESSMENT LIENS** - Liens for assessments may be foreclosed by suit brought in the name of the Association in the same manner as a foreclosure of a mortgage on real property and the Association may also bring an action to recover a money judgment. After a judgment of foreclosure has been entered, the Unit Owner during his occupancy, if so ordered by the Court, shall be required to pay a reasonable rental. If the Unit is rented or leased during the pendency of a foreclosure action, the Association shall be entitled to the appointment of a receiver to collect the rent. The Association shall have all the powers provided by applicable law and shall be entitled to collect interest at the highest lawful rate on unpaid assessments and reasonable attorneys' fees, including appeals, and costs incident to the collection of such assessment or enforcement of such lien, with or without suit.

18.1 **CREATION AND ENFORCEMENT OF CHARGES** - The Association shall have a cause of action against Unit Owners to secure payment to the Association by Unit Owners of all charges, costs and expenses to the Association which cannot be secured as assessments, regular or special, under applicable law. The charge shall bear interest at the highest lawful rate, and shall carry with it costs and attorney's fees, including appeals, incurred in collection.

19. **ASSOCIATION MEMBERSHIP**

19.1 All Owners of Units in the Condominium shall be members of the Association, and no other persons or entities shall be entitled to membership.

- 19.2 **MEMBERSHIP IN THE ASSOCIATION** shall be established by proof of ownership as reasonably required by the Association, which may include the recording in the Public Records of Lee County, Florida, a deed or other instrument establishing a change of record title to a Unit in the Condominium and the delivery to the Association of a copy of such instrument, the new owner thereby becoming a member of the Association. The membership of the prior owner shall be thereby terminated.

20. **CONDEMNATION**

- 20.1 **DEPOSIT OF AWARDS WITH ASSOCIATION** - The taking of all or any part of the Condominium Property by condemnation or eminent domain shall be deemed to be a casualty to the portion taken and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty. Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Association; and if any fail to do so, a special charge shall be made against a defaulting Unit Owner in the amount of his award, or the amount of that award shall be set off against any sums payable to that Unit Owner.
- 20.2 **DETERMINATION WHETHER TO CONTINUE CONDOMINIUM** - Whether the Condominium will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after a casualty.
- 20.3 **DISBURSEMENT OF FUNDS** - If the Condominium is terminated after condemnation, the proceeds of all awards and special assessments will be deemed to be Condominium Property and shall be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced, the owners of condemned Units, if any, will be made whole, and any property damaged by the taking will be made usable in the manner provided below. Proceeds of awards and special charges shall be used for these purposes and shall be disbursed in the manner provided for disbursements of funds after a casualty.
- 20.4 **ASSOCIATION AS AGENT** - The Association is hereby irrevocably appointed as each Unit Owner's attorney-in-fact for

purposes of negotiating or litigating with the condemning authority for the purpose of realizing just compensation for the taking.

20.5 **UNITS REDUCED BUT TENANTABLE** - If the taking reduces the size of a Unit and the remaining portion of the Unit can be made tenantable, the awards for the taking of a portion of that Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

20.5.1 **RESTORATION OF UNIT** - The Unit shall be made tenantable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be paid by the owner of the Unit.

20.5.2 **DISTRIBUTION OF SURPLUS** - The balance of the award, if any, shall be distributed to the owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the owner and mortgagees.

20.6 **UNIT MADE UNTENANTABLE** - If the taking is of any entire Unit or so reduces the size of a Unit that it cannot be made tenantable, the award for the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

20.6.1 **PAYMENT OF AWARD** - The fair market value of the Unit immediately prior to the taking, as determined by agreement between the Unit Owner and the Association or by arbitration in accordance with Paragraph 20.6.4 following, shall be paid to the owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the owner and the mortgagee(s).

20.6.2 **ADDITION TO COMMON ELEMENTS** - If possible and practical, the remaining portion of the Unit shall become a part of the Common Elements and shall be placed in condition for use by all Unit Owners in the manner approved by the Board of Directors.

20.6.3 **ADJUSTMENT OF SHARES IN COMMON ELEMENTS** - The shares in the common elements appurtenant to the Units that continue as part of a Condominium shall be adjusted to distribute the

ownership of the Common Elements in equal shares among the reduced number of Unit Owners. This shall be done by restating the shares of continuing Unit Owners in the Common Elements are fractions of the reduced total.

20.6.4 **ARBITRATION** - If the fair market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and the Association within thirty (30) days after notice by either party, the value shall be determined by appraisal in accordance with the following. The Unit Owner, the first mortgagee, if any, and the Association shall each appoint one M.A.I. appraiser, who shall appraise the Unit and shall determine the fair market value by computing the arithmetic average of their appraisals of the Unit. A judgment of specific performance upon the value arrived at by the appraisers may be entered in any court of competent jurisdiction. The cost of appraisals shall be paid by the party selecting the appraiser.

20.7 **TAKING OF COMMON ELEMENTS** - Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements usable in the manner approved by the Board of Directors. The balance of such awards, if any, shall be distributed to the Unit Owners in the shares in which they own the Common Elements after adjustment of these shares on account of the condemnation. If a Unit is mortgaged, the remittance shall be paid jointly to the owner and mortgagee(s) of the Unit.

20.8 **AMENDMENT OF DECLARATION** - The changes in Units, in the Common Elements and in the ownership of the Common Elements that are necessitated by condemnation, shall be evidenced by an amendment of the Declaration of Condominium that need be approved only by the majority of all Directors of the Association, without the consent of any mortgagee being required for any such amendment.

21. **TIME SHARE PROHIBITED** - No time share estates may be created in this Condominium.

22. **SEVERABILITY AND NON-WAIVER** - If any provision of this Declaration or its exhibits as now constituted or as later amended or any section, sentence, clause, phrase or word, or the application thereof in any circumstances is held invalid, the validity of

the remainder and of the application of any such provision, section, sentence, clause, phrase or word in other circumstances shall not be affected thereby. The failure of the Association in any instance to enforce any covenant or provision of this Declaration or any of the Condominium Documents shall not constitute a waiver of its right to do so thereafter in other instances.

(Remainder of page intentionally blank-this page followed by signature page)

THIS AMENDED, RESTATED AND COMBINED DECLARATION OF CONDOMINIUM and exhibits hereto is made and entered into this 30th day of November, 2000.

WITNESSES:

(Sign) Kathleen D Starnes
(Print) KATHLEEN D STARNES

(Sign) [Signature]
(Print) David K Fowler

SANIBEL ARMS WEST CONDOMINIUM ASSOCIATION, INC.

By: [Signature]
Elmer Brown, President

Attest:

By: [Signature]
Dan LaCava, Secretary

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 30th day of November, 2000, by Elmer Brown as President of Sanibel Arms West Condominium Association, Inc., a Florida non-profit corporation, on behalf of said corporation. He is personally known to me or has produced _____ as identification.

Notary Public:

[Signature]
Richard M. Spina
(Type/Print Name of Notary)
Commission No: _____

STATE OF
COUNTY OF



The foregoing instrument was acknowledged before me this _____ day of _____, 2000, by Dan LaCava as Secretary of Sanibel Arms West Condominium Association, Inc., a Florida non-profit corporation, on behalf of said corporation. He is personally known to me or has produced _____ as identification.

Notary Public:

(Type/Print Name of Notary)
Commission No: _____

Exhibit A

**AMENDED AND RESTATED BY-LAWS OF
SANIBEL ARMS WEST CONDOMINIUM ASSOCIATION, INC.**

*SUBSTANTIAL REWORDING OF BY-LAWS.
SEE ORIGINAL BYLAWS AS PREVIOUSLY AMENDED FOR ORIGINAL TEXT.*

1. **IDENTITY** - These are the Amended and Restated By-Laws of Sanibel Arms West Condominium Association, Inc., a non-profit Florida corporation formed for the purpose of administering Sanibel Arms West Condominium which is located at 827 E. Gulf Drive, Sanibel, Lee County, Florida, upon the lands described in the Declaration of Condominium. (The corporation shall hereafter be referred to as the "Association".) The definitions in the, Declaration of Condominium shall have the same meaning in these By-Laws unless the context otherwise requires.
 - 1.1 **OFFICE** - The office of the Association shall be at the Condominium.
 - 1.2 **FISCAL YEAR** - The fiscal year of the Association shall be the calendar year.
 - 1.3 **SEAL** - The seal of the Association shall bear the name or abbreviated name of the Association, the word "Florida," and the year of incorporation 1984.
2. **MEMBERS MEETINGS**
 - 2.1 **ANNUAL MEETINGS** - The Annual Members' meetings shall be held at the Condominium at 2:00 p.m. (EST) on the Saturday preceding the Thanksgiving Holiday of each year, for the purpose of electing Directors and of transacting any business authorized to be transacted by the members.
 - 2.2 **SPECIAL MEETINGS** - Special Members' meetings shall be held whenever called by the President, Vice President or by a majority of the Board of Directors and when requested by written notice from 20% of the Association voting interests. In the event that the Board of Directors adopts a budget requiring assessments for a Condominium or for the Association exceeding 115% of the assessments for the preceding year, the Board upon written

application of 10% of the voting interests in the Condominium shall call a special meeting of the unit owners to consider and enact a budget. Members meetings to recall a member or members of the Board of Directors may be called by 10% of the Association voting interests.

2.3 **NOTICE OF MEMBERS' MEETINGS-** Notice of members' meetings including the annual meeting, which must include an identification of agenda items, shall be delivered or mailed to each unit owner by United States mail, unless waived in writing, at least 14 days prior to the meeting, provided, however, that any election at which one or more Directors are to be elected must be noticed as provided for in Paragraph 2.4 next following. An officer of the Association or the Manager or other person giving notice of the meeting shall execute an affidavit of mailing or delivery as may be required by applicable law or provide a United States Postal Certificate of Mailing which shall be retained in the official records of the Association as proof of such mailing or delivery. Written notice of the meeting shall also be posted in a conspicuous place on the condominium property at least 14 continuous days prior to the annual meeting. The Board, upon notice to unit owners shall by duly adopted rule designate a specific location on the condominium property upon which all notices of unit owner meetings shall be posted.

2.4 **BOARD OF DIRECTORS' ELECTION MEETINGS NOTICE AND PROCEDURE -** The regular election shall occur at the time and place the annual meeting is scheduled to occur regardless of whether a quorum is present.

2.4.1 Not less than 60 days before a scheduled election, the Association shall mail, whether by separate Association mailing or included in another Association mailing or delivery including regularly published newsletters, to each unit owner entitled to vote, the first notice of the date of the election. It must contain the name and correct mailing address of the Association. Any unit owner or other eligible person desiring to be a candidate for the Board of Directors must give written notice to the Association not less than 40 days before a scheduled election. The Association shall then mail or deliver a second notice of the election and agenda to all unit

owners entitled to vote therein, together with a written ballot which shall list all candidates. Upon request of a candidate, the Association shall include an information sheet which must be furnished by the candidate not less than 35 days before the election, on one side of a sheet, no larger than 8½ inches by 11 inches, with the costs of copying and mailing to be borne by the Association. The Association shall not edit, alter, or otherwise modify the content of the information sheet and shall have no liability for its contents.

- 2.4.2 A voting machine may also be used by those attending the meeting in person, and a unit owner who needs assistance in voting due to blindness, disability or inability to read or write may obtain assistance from a member of the Board of Directors or other unit owner but no unit owner shall permit another person to cast his ballot and any such ballots improperly cast shall be deemed invalid.
- 2.4.3 There is no quorum requirement; however, at least 20 percent of the eligible voters must cast a valid ballot to have a valid election and elections shall be decided by a plurality of those votes cast. In the event of a tie, for a designated position on the Board, the tie shall be resolved by agreement of the candidates, if possible. Otherwise a runoff election must be held in accordance with applicable law.
- 2.4.4 An election and balloting are not required unless more candidates file notices of intent to run or are nominated than vacancies exist on the Board.
- 2.4.5 Notwithstanding anything in this Section 2, the Association may, by the affirmative vote of a majority of the total voting interests, provide for different voting and election procedures in these By-Laws which vote may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy.

- 2.5 **NOTICE - OWNERS' BUDGET MEETING** - Notice of a special meeting called by the Board at the written request of 10% of the owners because of a budget exceeding 115% of that of the preceding year requires not less than 10 days' written notice to each unit owner.
- 2.6 **NOTICES - SPECIFIC** - All notices of meetings shall state clearly and particularly the time, place, and purpose of the meeting and shall incorporate an identification of agenda items.
- 2.7 **QUORUM** - A quorum at members' meetings shall consist of persons entitled to cast a majority of the voting interests of the entire membership. Decisions made by a majority of the voting interests represented at a meeting at which a quorum is present in person or by proxy shall be binding and sufficient for all purposes except such decisions as may be required by applicable law or the Condominium Documents require a larger percentage in which case the percentage required by applicable law or the Condominium Documents shall govern.
- 2.8 **OWNER PARTICIPATION** - Unit Owners shall have the right to participate in meetings of Unit Owners with reference to all designated agenda items. However, the Association may adopt reasonable rules governing the frequency, duration and manner of Unit Owner participation. Such rules must be adopted in advance and in written form. Any Unit Owner may tape record or videotape a meeting of the Unit Owners subject and pursuant to rules adopted from time to time by applicable governmental authority.
- 2.9 **INDIVISIBLE VOTE** - As stated in the Declaration, each unit shall have one indivisible vote. If multiple owners of a unit cannot agree on a vote, the vote shall not be counted.
 - 2.9.1 The representative of a unit owned by a corporation or other entity not a natural person shall be the person properly authorized in writing by such corporation or other entity and filed with the Secretary of the Association. The representative must be an equity owner of such corporation or other entity. If no such written authorization has been filed as provided herein, the vote shall not be counted.
- 2.10 **PROXIES** - Votes may be cast in person or by proxy. Proxies shall be in writing, signed and dated and shall be valid only for the

particular meeting designated therein or an adjournment thereof, but in no event for more than 90 days, and must be filed with the Secretary before or at the voter registration immediately preceding the meeting. A photographic, photostatic or equivalent reproduction of a proxy is a sufficient proxy if allowable under applicable law. Except as specifically otherwise provided in this Paragraph, or by the Condominium Act from time to time, Unit Owners may not vote by general proxy, but may vote by limited proxies substantially conforming to the limited proxy form adopted by the Division of Florida Land Sales, Condominiums and Mobile Homes. Both limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves; for votes taken to waive financial statement requirements; for votes taken to amend the Declaration; for votes taken to amend the Articles of Incorporation or By-Laws; and for any other matter which applicable law requires or permits a vote of the Unit Owners. No proxy, limited or general, shall be used in the election of Board members. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for non-substantive changes to items for which a limited proxy is required and given.

2.11 **NO QUORUM** - If any meeting of members cannot be organized because a quorum is not present, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

2.12 **ORDER OF BUSINESS** - The order of business at annual members' meetings and, as far as applicable at all other members' meetings, may be:

(a) Election of a Chairman of the meeting, unless the President or Vice President of the Association is present then he (or she) shall preside.

(b) Collection of ballots.

(c) Checking of signatures and unit identifications on ballot outer envelopes against the eligible voter lists.

(d) Registering proxies and counting votes.

- (e) Proof of Notice of meeting or waiver of notice.
- (f) Calling of the roll and certifying of proxies.
- (g) Reading and disposal of any unapproved minutes.
- (h) Reports of Directors.
- (i) Reports of Committees.
- (j) Announcement of the results of the election of Directors.
- (k) Unfinished business.
- (l) New business.
- (m) Adjournment.

3. **BOARD OF DIRECTORS**

3.1 **NUMBER AND QUALIFICATIONS** - The affairs of the Association shall be governed by a Board composed of five (5) persons. All Directors shall be members. Only the designated person (as set forth in Paragraph 2.9) of a corporation, trust, partnership or other such entity shall be deemed to be a member for the purpose of Board membership.

3.2 **TERM OF SERVICE** - Directors shall be elected by the members at the annual meeting. The term is two (2) years and the election staggered so that three (3) Directors are elected one (1) year and two (2) Directors are elected the next year.

In the event that a Director is elected to replace a resigned, recalled or deceased Director, the new Director shall serve only the remainder of the term of the resigned, recalled or deceased Director.

In the event that a Director is appointed by the Board of Directors, such appointment is valid for the unexpired term of his predecessor in office or until the next annual members' meeting whichever occurs first. If required, an election shall be held to fill the remaining unexpired term.

- 3.3 **BOARD VACANCIES** - Vacancies in the Board of Directors occurring between annual meetings of members shall be filled within 45 days by appointment by a majority vote of the remaining Directors; provided, however, that if a majority or more of the Board members are removed by recall, the vacancies shall be filled in accordance with applicable law; provided further that a Director who has been recalled by the membership may not be appointed to fill the vacancy created by his removal. A Director appointed to fill a vacancy shall be appointed for the unexpired term of his predecessor in office or until the next annual members' meeting whichever occurs first.
- 3.4 **ORGANIZATIONAL MEETING** - The organizational meeting of each newly elected Board of Directors to elect officers shall be held at such place and time as shall be fixed by the Directors, provided a quorum shall be present. Unless otherwise noticed, it shall be held immediately following the annual meeting. Election of officers may be by secret ballot.
- 3.5 **REGULAR MEETINGS** - Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, provided that at least one Director, preferably the President or Vice President, shall be at the condominium property. Notice of regular meetings, unless noticed previously, shall be given to each Director personally or by mail, telephone or telecopier or other agreed upon means at least three days prior to the day named for such meeting. A Board member may attend by telephone or video conference call.
- 3.6 **SPECIAL MEETINGS** - Special meetings of the Directors may be called upon by the President and must be called by the Secretary at the written request of any two (2) Directors. Not less than fourteen (14) days' notice of the meeting (except in an emergency) shall be given personally or by mail, telephone or telecopier, which notice shall state the time, place and purpose of the meeting. At least one Director, preferably the President or Vice President, shall be at the condominium property. Others may attend by telephone or video conference call.
- 3.7 **EMERGENCY MEETINGS** - Emergency meetings of the Board of Directors may be called by the President and must be called in accordance with the requirements set forth in Section

718.112(2)(b)(5), FLORIDA STATUTES, by the Secretary at the request of any two (2) Directors. Directors may attend by telephone or video conference call. Notice must be given to all Directors and posted conspicuously on the condominium property. Notice shall be sent to all owners if time permits. Such emergency action shall be noticed and ratified at the next regular meeting of the Board. The only agenda items shall be the subject of the emergency. For the purpose of this paragraph, emergency means unforeseeable circumstances which place the Association, whether financially or otherwise, in immediate jeopardy, and if not acted upon immediately will result in irreparable injury.

- 3.8 **WAIVER OF NOTICE** - Any Director may waive notice of a meeting before, at or after the meeting and such waiver shall be deemed equivalent to the giving of notice. Attendance by a Director at a meeting shall constitute waiver of notice of the meeting.
- 3.9 **NOTICE TO OWNERS** - Notices of Directors meetings, and meetings of committees to make recommendations regarding the Association budget or which have the authority to take action on behalf of the Board shall be posted conspicuously on the condominium property at least 14 continuous days in advance for the attention to unit owners and shall be mailed or delivered to all unit owners 14 days in advance, except in an emergency. Notices shall specifically incorporate an identification of agenda items. Meetings at which a regular assessment is to be considered shall contain a statement that assessments will be considered and the nature of such assessments. However, written notice of any meeting at which nonemergency special assessments, or at which amendment to rules regarding unit use will be proposed, discussed, or approved, shall be mailed or delivered to the unit owners and posted conspicuously on the condominium property not less than 14 continuous days prior to the meeting. Evidence of compliance with this 14-day notice shall be by an affidavit executed by the Secretary or the Manager and filed among the official records of the Association. Upon prior notice to the unit owners, the Board shall by duly adopted rule designate a specific location on the condominium property upon which all notices of Board meetings shall be posted.
- 3.10 **OWNER PARTICIPATION** - Meetings of the Board of Directors and any committee thereof required to give notice pursuant to Paragraph 3.8 above, at which a quorum of the members of that

committee are present shall be open to all unit owners. The right to attend such meetings includes the right to speak with reference to all identified agenda items provided however, the Association may adopt reasonable rules governing the frequency, duration and manner of unit owner participation. Such rules must be adopted in advance and in written form. Unit owners shall have the right to tape record or videotape the meetings of the Board of Directors or Committee subject and pursuant to Rules adopted from time to time by applicable governmental authority. If any Director attends by telephone or video conference call, a speaker must be used that can be heard by all Directors attending.

3.11 **BOARD MEETINGS, QUORUM AND VOTING** - A quorum at Directors' meetings shall consist of a majority of the Directors, whether physically present or attending by telephones or video conference call. The acts approved by a majority of Directors present at a meeting at which a quorum is present shall constitute the acts of the Board. Directors may not vote by proxy or by secret ballot at Board meetings, except that officers may be elected by secret ballot and a vote or abstention for each member present shall be recorded in the minutes. If at any meeting of the Board there be less than a quorum present, the Director(s) present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting, which must be properly noticed, any business which might have been transacted at the meeting as originally called may be transacted. Absent Directors may later sign written joinders in Board actions, but such joinders may not be used for purposes of creating a quorum.

3.12 **PRESIDING OFFICER** - The presiding officer at Directors' meetings shall be the President if such an officer has been elected; and if none, then the Vice President shall preside. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

3.13 **DIRECTORS COMPENSATION** - Directors shall serve without pay, but shall be entitled to reimbursement for expenses reasonably incurred.

4. **POWERS AND DUTIES OF THE BOARD OF DIRECTORS** - All of the powers and duties of the Association existing under the Florida Corporation Statutes, the Condominium Act, the Declaration of Condominium, the Corporate Charter and these

By-Laws shall be exercised exclusively by the Board of Directors, or its duly authorized agents, contractors, or employees subject only to the approval by Unit Owners when such is specifically required. Such powers and duties of the Directors shall include, but shall not be limited to, the following.

- 4.1 **TO ADOPT BUDGETS AND MAKE AND COLLECT ASSESSMENTS AGAINST** owners to defray the costs of the Association.
- 4.2 **TO USE THE PROCEEDS OF ASSESSMENTS** in the exercise of its powers and duties.
- 4.3 **THE MAINTENANCE, REPAIR, REPLACEMENT AND OPERATION** of the Condominium Property.
- 4.4 **TO ENACT RULES AND REGULATIONS** concerning the use of the Common Elements and the Units, subject to the limitations contained in the Declaration of Condominium and Regulations concerning the administration of the Condominium subject to the above limitations.
- 4.5 **THE RECONSTRUCTION OF THE COMMON ELEMENTS OR ASSOCIATION PROPERTY IMPROVEMENTS AFTER CASUALTY** and the future improvement of such property.
- 4.6 **TO APPROVE OR DISAPPROVE PROPOSED ACTIONS** in the manner provided by the Condominium Declaration.
- 4.7 **TO ENFORCE** by legal means the provisions of applicable laws and the Condominium Documents, including Rules and Regulations.
- 4.8 **TO CONTRACT FOR MANAGEMENT** of the Condominium while retaining responsibility for such contractor and the actions thereof.
- 4.9 **TO CARRY INSURANCE** for the protection of the Unit Owners and the Association.
- 4.10 **TO PAY THE COST OF ELECTRICITY, WATER, GAS, SEWER AND OTHER UTILITY SERVICES** rendered to the Condominium and not billed to owners of individual Units.

- 4.11 **TO EMPLOY PERSONNEL** for reasonable compensation and grant them such duties as seem appropriate for proper administration of the purposes of the Association.
- 4.12 **TO BRING AND DEFEND SUITS, MAKE AND EXECUTE CONTRACTS, DEEDS, MORTGAGES, LEASES** and other instruments by its officers and to purchase, own, lease, convey and encumber real and personal property. To grant easements and licenses over the Condominium and Association property necessary or desirable for proper operation of the Community and to convey a portion of the common elements to a condemning authority for the purpose of providing utility easements, right-of-way expansions or other public purposes whether negotiated or as the result of eminent domain proceeding.
- 4.13 **CONTRACTS FOR PRODUCTS AND SERVICES** - All contracts for the purchase, lease or renting of materials or equipment or for services, or which are not to be fully performed within one year, shall be in writing. As to any such contract which requires payment exceeding 5 percent of the total annual budget of the Association including reserves except for contracts with employees of the Association, and for attorneys, accountants, architects, engineering, community association manager and landscape architects, the Association shall obtain at least three (3) competitive bids unless the products and services are needed as the result of an emergency or unless the desired supplier is the only source of supply within the County serving the Association. The Association need not accept the lowest bid. This Paragraph shall be deemed to incorporate the provisions of the Condominium Act as it exists from time to time.
- 4.14 **COMMITTEES** - The Directors may appoint committees including a search committee for the purpose of finding eligible persons who are willing to submit their names as candidates for election to the Board of Directors except that a nominating committee for the election of Directors is prohibited. All committees and committee members shall serve at the pleasure of the Board. Committee members shall serve without pay, but if approved by the Board of Directors, shall be entitled to reimbursement for expenses reasonably incurred.

- 4.15 **FIRE SAFETY COMPLIANCE** - The Directors may accept a Certificate of Compliance from a licensed electrical contractor or electrician as evidence of compliance of the Condominium Units with the applicable Fire and Life Safety Code.
- 4.16 **TO HAVE THE FOLLOWING EMERGENCY POWERS** - The following shall apply to the extent not viewed to be in conflict with the Condominium Act:
- 4.16.1 In anticipation of or during any emergency defined in Paragraph 4.16.6 below, the Board of Directors of the Association may:
- (a) Name as assistant officers persons who are not Board members, which assistant officers shall have the same authority as the executive officers to whom they are assistant, during the period of the emergency, to accommodate the inability of any officer of the Association to function; and
 - (b) Relocate the principal office or designate alternative principal offices or authorize the officers to do so.
- 4.16.2 During any emergency defined in Paragraph 4.16.6 below:
- (a) Notice of a meeting of the Board of Directors need be given only to those Directors whom it is practicable to reach and may be given in any practicable manner, including by publication and radio;
 - (b) The Director or Directors in attendance at a meeting shall constitute a quorum.
- 4.16.3 Corporate action taken in good faith during an emergency under this Section 4 to further the ordinary affairs of the Association:
- (a) Binds the Association; and
 - (b) Shall have the presumption of being reasonable and necessary.

- 4.16.4 An officer, director or employee of the Association acting in accordance with any emergency By-Laws is only liable for willful misconduct.
- 4.16.5 The provisions of these emergency By-Laws shall supersede any inconsistent or contrary provisions of the By-Laws for the period of the emergency.
- 4.16.6 An emergency exists for the purposes of this Section 4 if the Condominium has been significantly damaged as the result of a natural disaster or other catastrophic event or is significantly affected by such a disaster or event.

4.17 **TO PAY TAXES AND ASSESSMENTS** which are or could be liens against any part of the condominium other than individual units.

5. **OFFICERS**

- 5.1 **EXECUTIVE OFFICERS** - The executive officers of the Association shall be the President, a Vice President, a Secretary, a Treasurer and such assistant officers as may be desired, all of whom shall be elected annually by and from the Board of Directors and who may be peremptorily removed by a majority vote of the Directors at any meeting. Any person may hold two or more offices except that the President shall not also be the Secretary.
- 5.2 **PRESIDENT - POWERS AND DUTIES** - The President shall be the chief executive officer of the Association and shall have all of the powers and duties which are usually vested in the office of President of a corporation.
- 5.3 **VICE PRESIDENT - POWERS AND DUTIES** - The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. The Vice President shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.
- 5.4 **SECRETARY - POWERS AND DUTIES** - The Secretary shall keep the minutes of all proceedings of the Directors and the members; shall attend to the giving and serving of all notices to the members and Directors and other notices required by law; shall have

custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed; shall keep and have custody of the records of the Association, except those of the Treasurer; and shall perform all other duties incident to the office of Secretary of the Association and as may be required by the Directors or the President.

- 5.5 **TREASURER - POWERS AND DUTIES** - The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness; shall keep the assessment rolls and accounts of the members; shall keep the books of the Association in accordance with good accounting practices; and shall perform all other duties incident to the office of the Treasurer of a corporation.
- 5.6 **EMPLOYEE COMPENSATION** - The compensation of all employees of the Association shall be fixed by the Directors. No member of the Board of Directors shall be an employee of the Association.
- 5.7 **OFFICER COMPENSATION** - Officers shall serve without compensation, but shall be entitled to reimbursement for expenses reasonably incurred.
- 5.8 **INDEMNIFICATION** - Every Director and every officer and committee member of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees through all trial and appellate levels, reasonably incurred by or imposed in connection with any proceeding, arbitration or settlement to which such person may be a party, or in which they may become involved, by reason of being or having been a Director, officer or committee member of the Association. Notwithstanding the foregoing, in the event of a voluntary settlement, the indemnification provisions herein shall not be automatic and shall apply only when the Board approves such settlement. The foregoing right of indemnification shall be in addition to and not exclusive of any and all rights of indemnification to which such Director, officer or committee member may be entitled by common law or statute.
- 5.9 **FIDUCIARY RELATIONSHIP AND RESPONSIBILITY/ CONFLICT OF INTEREST** - Members of the Board of Directors, each officer of the Association and any licensed manager employed

by the Association have a fiduciary relationship with the unit owners. This fiduciary relationship imposes obligations of trust and confidence in favor of the Association and unit owners. This requires that members of the Board, officers and any licensed manager employed by the Association to act in good faith and in the best interest of the unit owners. Duties must be performed with the care and responsibility that an ordinary prudent person would exercise under similar circumstances and the ultimate responsibilities cannot be delegated to a manager, or other third party.

Officers and directors must avoid conduct which may result in private or personal gain from their position and must also avoid conduct which may appear to be a conflict of interest. Any conduct which may give rise to doubt as to conflict of interest must be fully disclosed to all unit owners.

- 5.10 **DELEGATION** - To the extent permitted by law, the powers and duties of the directors and officers may be delegated for the purpose of management by the Board of Directors. The Board of Directors remain responsible for the actions of those to whom delegated.

6. **MINUTES AND INSPECTION OF RECORDS** - Minutes of all meetings of unit owners and of the Board of Directors shall be kept in a businesslike manner and shall be reduced to written form within thirty (30) days and these, plus records of all receipts and expenditures and all other official records, as defined in the Condominium Act, except those which may be exempted by the Condominium Act and/or applicable governmental authority from time to time, shall be available for inspection by unit owners and Board members within 5 working days after receipt of a written request by the Board or its designee. This provision shall be deemed to have been complied with by having a copy of the official records available for inspection or copying on the condominium or Association property. Provided, however, that the Directors may adopt, in advance and in written form, reasonable rules regarding the frequency, time, location, notice and manner of record inspections and copying.

7. **FISCAL MANAGEMENT** - Shall be in accordance with the following provisions.

- 7.1 **BUDGET** - A proposed annual budget of common expenses for the Condominium and an administrative budget for the Association shall be prepared by the Board of Directors which shall include all anticipated expenses for operation, maintenance and administration of the Condominiums and for all of the unpaid operating expenses previously incurred. The Condominium budgets shall contain

reserves per applicable law which may later be waived. The waiver of reserves in a condominium budget shall be by a majority of the voting interests in the Condominium present and voting at a duly called meeting of the Association. Reserve funds and any accrued interest on the funds for an individual Condominium shall remain in the reserve accounts for authorized reserve expenditures only, unless their use for other purposes is approved in advance by a majority vote of the voting interests in the Condominium present at a duly called meeting of the Association. It will contain a reasonable allowance for contingencies and provide funds for all unpaid operating expenses previously incurred. If at any time a budget shall prove insufficient, it may be amended by the Board of Directors for the remaining portion of the fiscal year.

- 7.2 **MAILING** - A copy of the proposed annual budgets shall be mailed or delivered to the Unit Owners not less than 14 days prior to the meeting of the directors at which the budgets will be adopted together with a notice of the meeting.
- 7.3 **ASSESSMENTS** - The shares of the Unit Owners of the Common Expenses may be made payable in installments of from one to three months in advance and shall become due on the first day of each such period and which shall become delinquent 10 days thereafter. The Association shall have the right to accelerate assessments of a Unit Owner delinquent in the payment of Common Expenses. Accelerated assessments shall be due and payable on the date a claim of lien is filed in the Public Records in Lee County, Florida and may include the amounts due for the remainder of the fiscal year for which the claim of lien was filed.
- 7.4 **SPECIAL ASSESSMENTS AND CHARGES** - Assessments and charges for unexpected and unforeseen expenses which are not provided for and funded in the current budget and which are not deferrable to the next annual budget shall be made by the Board of Directors, and the time of payment shall likewise be determined by them.
- 7.5 **ASSESSMENT ROLL** - The Assessments for Common Expenses and Charges shall be set forth upon a roll of the Units which shall be available for inspection at all reasonable times by Unit Owners. Such roll shall indicate for each Unit the name and address of the Owner, and the Assessments and charges paid and unpaid. A

certificate made by a duly authorized representative of or by the Board of Directors as to the status of a Unit's account may be relied upon for all purposes by any person for whom made.

7.6.

LIABILITY FOR ASSESSMENTS AND CHARGES - A Unit Owner regardless of how his title has been acquired including by purchase at a foreclosure sale or by deed in lieu of foreclosure shall be liable for all Assessments and charges coming due while the owner of a Unit. Additionally, a Unit Owner shall be jointly and severally liable with the previous owner for all unpaid Assessments and charges due and payable up to the time of transfer of title. Liability may not be avoided by waiver of the use or enjoyment of any Common Elements or Association property or by abandonment of the Unit for which the Assessments are made. The liability of a first mortgagee or its successor or assignees who acquire title to a Unit by foreclosure or by deed in lieu of foreclosure for the unpaid Assessments that became due prior to the mortgagee's acquisition of title is limited to the lesser of: (1) The Unit's unpaid Common Expenses and regular periodic Assessments which accrued or came due during the 6 months immediately preceding the acquisition of title and for which payment in full has not been received by the Association; or (2) One percent of the original mortgage debt; or otherwise the maximum amount as provided by applicable law. This partial excusal shall not apply unless the first mortgagee joined the Association as a defendant in the foreclosure action. Joinder of the Association is not required if, on the date the complaint is filed, the Association was dissolved or did not maintain an office or agent for service of process at a location which was known to, or reasonably discoverable by the mortgagee. The person acquiring title shall pay the amount owed to the Association within 30 days after transfer of title. Failure to pay the full amount when due shall entitle Association to record a claim of lien against the parcel and proceed in the same manner as provided in this Section for the collection of unpaid assessments. This Paragraph shall be deemed amended so as to incorporate the provisions of Florida Statute Section 718.116 as amended from time to time.

7.7

LIENS FOR ASSESSMENTS - The unpaid portion of an Assessment including an accelerated Assessment which is due, together with costs, interest and reasonable attorneys' fees for collection, shall be secured by a lien upon the Unit and all appurtenances thereto when a notice claiming the lien has been

recorded by the Association in accordance with the requirements of applicable law.

- 7.8 **UNPAID CHARGES** - Unpaid charges which are due together with costs, interest and reasonable attorney's fees including appeals for collection shall be the basis for an action at law by the Association against the Unit Owner.
- 7.9 **COLLECTION - INTEREST; ADMINISTRATIVE LATE FEE; APPLICATION OF PAYMENTS** - Assessments paid on or before thirty days after the date due shall not bear interest, but all sums not paid on or before thirty days may bear interest at the highest lawful rate from time to time from the date due until paid. In addition to such interest, the Association may charge an administrative late fee in an amount not to exceed the greater of \$25.00 or 5% of each installment of the Assessment for which payment is late. All payments upon account shall be first applied to interest, then the late fee, then to any costs and reasonable attorney's fees and then to the Assessment payment first due. All interest collected shall be credited to the Common Expense account.
- 7.10 **COLLECTION - SUIT** - The Association, at its option, may enforce collection of delinquent Assessments by suit at law, by foreclosure of the lien securing the Assessments, or by any other remedy available under the laws of the State of Florida, and in any event the Association shall be entitled to recover the payments which are delinquent at the time of collection, judgment or decree, together with those which have become due by acceleration plus interest thereon and all costs incident to the collection and the proceedings, including reasonable attorneys' fees, including appeals. If required by applicable law, the Association must deliver or mail by certified mail to the unit owner a written notice of its intention to foreclose the Assessment lien 30 days before commencing foreclosure, unless Notice of Contest of Lien has been filed. If limited by applicable law, the lien shall secure only Assessments, interest, costs and attorneys fees and not fines, charges or other fees.
- 7.11 **ACCOUNTS** - All sums collected from Assessments or charges shall be credited to accounts from which shall be paid the expenses for which the respective Assessments or charges are made.

- 7.12 **ASSOCIATION DEPOSITORY** - The depository of the Association shall be a bank or banks or state or federal savings and loan associations with offices in Florida as shall be designated from time to time by the Directors and in which the moneys for the Association shall be deposited. Withdrawal of moneys from such accounts shall be only by checks signed by such persons as are authorized by the Directors.
- 7.13 **COMMINGLING OF FUNDS** - All funds shall be maintained separately in the Association's name. Reserve and operating funds of the Association shall not be commingled unless combined for investment purposes. If funds are combined for investment purposes, the funds must be accounted for separately, and the combined account balance may not at anytime, be less than the amount identified as reserve funds in the combined account. No manager or business entity required to be licensed or registered under applicable law, and no agent, employee, officer or Director of the Association shall commingle any Association funds with his funds or the funds of any other condominium association or community association as defined in Florida Statute Section 468.431.
- 7.14 **FINANCIAL REPORTS** - A complete financial report of actual receipts and expenditures of the Association shall be made annually which shall comply with applicable law or in lieu thereof, if required by applicable law, a complete set of financial statements prepared in accordance with generally accepted accounting principles. A copy of the report or the financial statements shall be furnished to each member within 30 days after its completion and delivery to the Directors or at the annual meeting. The financial report shall be made by a certified public accountant.
- 7.15 **FIDELITY BONDING** - The Association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the Association. This includes but is not limited to those individuals authorized to sign checks and the President, Secretary and Treasurer 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. The Association shall bear the cost of bonding.
8. **PARLIAMENTARY RULES** - Robert's Rules of Order (Latest Edition) uniformly applied shall govern the conduct of corporate proceedings when not in conflict with the

Declaration, the Charter or By-Laws of the Association or with the laws of the State of Florida.

9. **BY-LAW AMENDMENTS** - Amendments to the By-Laws shall be adopted in the following manner:

- 9.1 **NOTICE** of the subject matter of a proposed amendment shall be included in the notice of any meeting or the text of any written agreement at which or by which a proposed amendment is considered.
- 9.2 **PROPOSAL OF AMENDMENTS** - An amendment may be proposed by either a majority of the Directors or by fifteen percent (15%) of the voting interests.
- 9.3 **ADOPTION OF AMENDMENTS** - A resolution or written agreement adopting a proposed amendment must receive approval of fifty percent (50%) plus one of the voting interests of the Association.
- 9.4 **EFFECTIVE DATE** - An amendment when adopted shall become effective only after being recorded according to law.
- 9.5 **AUTOMATIC AMENDMENT** - These By-Laws shall be deemed amended, if necessary, so as to make the same consistent with the provisions of the Declaration of Condominium, the Association Charter, or the mandatory provisions of the Condominium Act as amended from time to time.
- 9.6 **PROPOSED AMENDMENT FORMAT** - A proposal to amend existing By-Laws shall contain the full text of the By-Laws to be amended. New words shall be underlined and words to be deleted shall be lined through with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying, "SUBSTANTIAL REWORDING OF BY-LAW. SEE BY-LAW NUMBER ____ FOR PRESENT TEXT."

10. **MANDATORY ARBITRATION OF DISPUTES** - If unresolved, disputes between the Board and Unit owners as defined in the Condominium Act must be arbitrated in

mandatory non-binding arbitration proceedings prior to commencing litigation if required by the Condominium Act.

The foregoing were adopted as the Amended and Restated By-Laws of SANIBEL ARMS WEST CONDOMINIUM ASSOCIATION, INC. on this 30th day of November, 2000.

Witnesses:

Kathleen D Starnes
Print Name: KATHLEEN D
STARNES

David K Fowler
Print Name: David K Fowler

SANIBEL ARMS WEST CONDOMINIUM
ASSOCIATION, INC.

Elmer Brown
Elmer Brown, President

Attest:

Dan La Cava
Dan La Cava, Secretary

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me this November 30th, 2000 by ELMER BROWN as President of SANIBEL ARMS WEST CONDOMINIUM ASSOCIATION, INC., a Florida non-profit corporation, on behalf of said corporation. He is personally known to me or who produced _____ as identification.

Richard M. Spina
Notary Public

RICHARD M. SPINA
(Type/Print Name of Notary)
Commission No: _____



RICHARD M. SPINA
COMMISSION # CC621467
EXPIRES MAR 31, 2001
BONDED THROUGH
ATLANTIC BONDING CO., INC

Exhibit B

The Condominium Plot Plan, including the legal description of the property is as recorded with the Original Declaration in Official Records Book 841 at pages 664-671 and amended in Official Records Book 885 at pages 782-783.

Exhibit C

SCHEDULE OF PERCENTAGE OF OWNERSHIP
BY EACH UNIT OF THE COMMON ELEMENTS

(as recorded with the Original Declaration
in Official Records Book 841 at page 675)

The Condominium shall contain 13 residential buildings; each of which shall contain 8 living units. These buildings are known respectively as Buildings "A" through "M". The ownership of the common elements is hereby allocated so that 1/104th is owned by each unit.

State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of SANIBEL ARMS WEST CONDOMINIUM ASSOCIATION, INC., a corporation organized under the laws of the State of Florida, filed on May 23, 1984, as shown by the records of this office.

The document number of this corporation is N03248.



CR2EO22 (1-99)

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Thirtieth day of November, 2000

Katherine Harris
Katherine Harris
Secretary of State

FILED

ARTICLES OF INCORPORATION

OF

SANIBEL ARMS WEST CONDOMINIUM ASSOCIATION, INC.

(A NONPROFIT FLORIDA CORPORATION)

ARTICLE I

The name of this corporation is SANIBEL ARMS WEST CONDOMINIUM ASSOCIATION, INC.

ARTICLE II

The purpose for which this corporation is organized is to act as the governing association of SANIBEL ARMS WEST CONDOMINIUM, located at Sanibel, Florida.

ARTICLE III

The qualification of members and the manner of their admission shall be as follows: Any person or persons who hold title in fee simple to a condominium unit in the condominium shall by virtue of such ownership be a member of this corporation.

ARTICLE IV

This corporation shall exist perpetually.

ARTICLE V

The name and residence of the subscriber to these Articles of Incorporation is as follows:

DENNIS TRAVIS
Suite 401
411 Wolf Ledges Parkway
Akron, Ohio 44311

ARTICLE VI

The affairs of the corporation are to be managed by a Board of five Directors who will be elected at the annual meeting of the Condominium Association as provided for in the By-Laws.

ARTICLE VII

The names of the officers who are to serve until the first election or appointment under the Articles of Incorporation are:

ALLEN, KNUDSEN,
SWARTZ,
DISCEST, RHODES
& EDWARDS, P.A.
ATTORNEYS AT LAW
2110 FIRST STREET
N. O. BOX 1480
FORT MYERS, FLORIDA

DENNIS TRAVIS	- President
CHARLES BONSER	- Vice President
JACK TRAVIS	- Treasurer
WILLIAM GORE	- Secretary
MARIAN SCHMITT	- Assistant Secretary

ARTICLE VIII

The number of persons constituting the first Board of Directors shall be five, and their names and addresses are as follows:

DENNIS TRAVIS
Suite 401
411 Wolf Ledges Parkway
Akron, Ohio 44311

CHARLES BONSER
4625 Inverness Woods
Bloomington, Indiana 47401

WILLIAM GORE
503 Centran
Akron, Ohio 44308

JACK TRAVIS
7547 W. Palatine Avenue
Chicago, Illinois 60631

MARIAN SCHMITT
1619 W. Christine
Peoria, Illinois 61614

ARTICLE IX

The By-Laws of the corporation are to be made, altered or rescinded by a majority vote of the voting interests and Directors of the corporation.

ARTICLE X

Amendment to these Articles of Incorporation may be proposed and adopted as follows:

An Amendment may be proposed by either the Board of Directors or by any owners and may be considered at any meeting of the owners, regular or special, of which due notice has been given according to the By-Laws, which includes a notice of the substance of the proposed amendment.

The Amendment must be approved by a vote of a majority of the voting interests of the corporation.

ARTICLE XI

Each unit in the Condominium shall have one full indivisible vote cast as provided for in the By-Laws.

ALLEN, KNUDSEN,
SWARTZ,
DEBOEST, RHOADS
& EDWARDS, P.A.
ATTORNEYS AT LAW
2118 FIRST STREET
P. O. BOX 1480
FORT MYERS, FLORIDA

ARTICLE XII

This corporation reserves the right to amend or repeal any provisions contained in these Articles of Incorporation.

ARTICLE XIII

This corporation shall have all the powers permitted by law together with such additional specific powers as are contained in the Declaration and the By-Laws.

IN WITNESS WHEREOF, the undersigned subscriber has executed these Articles of Incorporation this 7th day of May 1984.

Dennis Travis (SEAL)

STATE OF OHIO

COUNTY OF SUMMIT

BEFORE ME, the undersigned, a Notary Public authorized to take acknowledgments in the State and County aforesaid, personally appeared DENNIS TRAVIS, known to me and known to be the person who executed the foregoing Articles of Incorporation, and he acknowledged before me that he executed those Articles of Incorporation.

WITNESS my hand and seal this 7th day of May 1984.

NOTARY PUBLIC

MY COMMISSION EXPIRES:

JEAN E. PALP, Notary Public
Residence
State of Ohio
My Commission Expires May, 31, 1987

ALLEN, KNUDSEN,
SWANZ,
DEBOLT, RHODES
& EDWARDS, P.A.
ATTORNEYS AT LAW
2110 FIRST STREET
P. O. BOX 1400
PORT MYERS, FL, 33955

CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE OF PROCESS WITHIN FLORIDA. NAMING AGENT UPON WHOM PROCESS MAY BE SERVED. **FILED**

IN COMPLIANCE WITH SECTION 48-091, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED:

FIRST--THAT SANIBEL ARMS WEST CONDOMINIUM ASSOCIATION, INC.
(NAME OF CORPORATION)

DESIRING TO ORGANIZE OR QUALIFY UNDER THE LAWS OF THE STATE OF FLORIDA, WITH ITS PRINCIPAL PLACE OF BUSINESS AT CITY OF Sanibel
(CITY)

STATE OF Florida
(STATE) HAS NAMED RICHARD D. DeBOEST
(NAME OF RESIDENT AGENT)

LOCATED AT 2118 First Street, Fort Myers, Florida 33901
(STREET ADDRESS AND NUMBER OF BUILDING)
POST OFFICE BOX ADDRESSES ARE NOT ACCEPTABLE

CITY OF Fort Myers
(CITY) STATE OF FLORIDA, AS ITS AGENT TO ACCEPT SERVICE OF PROCESS WITHIN FLORIDA,

SIGNATURE [Signature]
(CORPORATE OFFICER)
Dennis Travis

TITLE President

DATE 5-7-84

HAVING BEEN NAMED TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE STATED CORPORATION, AT THE PLACE DESIGNATED IN THIS CERTIFICATE, I HEREBY AGREE TO ACT IN THIS CAPACITY, AND I FURTHER AGREE TO COMPLY WITH THE PROVISIONS OF ALL STATUTES RELATIVE TO THE PROPER AND COMPLETE PERFORMANCE OF MY DUTIES.

SIGNATURE [Signature]
(RESIDENT AGENT)
Richard D. Deboest

DATE 5-10-84

Prepared by and return to:
David K. Fowler
Henderson, Franklin, Starnes & Holt, P.A.
1648 Periwinkle Way, Suite B
Sanibel, FL 33957

INSTR # 6925774
UR BK 04828 Pgs 0485 - 494; (10pgs)
RECORDED 08/03/2005 03:17:21 PM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY, FLORIDA
RECORDING FEE 86.50
DEPUTY CLERK C Keller

**CERTIFICATE OF AMENDMENT TO THE RULES AND
REGULATIONS OF SANIBEL ARMS WEST CONDOMINIUM**

10
THE UNDERSIGNED, being the duly elected and acting President and Secretary of Sanibel Arms West Condominium Association, Inc., a Florida non-profit corporation, do hereby certify that the Amended Rules and Regulations of Sanibel Arms West Condominium, attached hereto, were duly adopted by the Board of Directors of Sanibel Arms West Condominium Association, Inc. and furnished by the Association to all Unit Owners pursuant to Paragraph 12.2 of the Amended and Restated Declaration of Condominium of Sanibel Arms West Condominium as recorded in Official Records Book 3337, Page 3086, Public Records of Lee County, Florida.

The Rules and Regulations may be further amended without recordation of said changes in the Public Records.

Wherefore, this Certificate of Amendment is executed this 29 day of June, 2005.

**SANIBEL ARMS WEST CONDOMINIUM
ASSOCIATION, INC.,**
a Florida non-profit corporation

By: Elmer Brown
Elmer Brown, President

Attest:

By: Dan LaCava
Dan LaCava, Secretary

Notary Acknowledgement for Certificate of Amendment to Rules and Regulations of
Sanibel Arms West Condominium

STATE OF FL

COUNTY OF Lee

THE FOREGOING INSTRUMENT was acknowledged before me this 29 day of
June, 2005, by Elmer Brown as President of Sanibel Arms West
Condominium Association, Inc., a Florida non-profit corporation, on behalf of said corporation.
He is personally known to me or has produced _____ as
identification.

My Commission Expires:

Kathleen A Starnes
Notary Public



Print/Type Name of Notary

Commission No. _____

Notary Acknowledgement for Certificate of Amendment to Rules and Regulations of
Sanibel Arms West Condominium

STATE OF FL

COUNTY OF Lee

THE FOREGOING INSTRUMENT was acknowledged before me this 29 day
of June, 2005, by Dan Lacava as Secretary of Sanibel Arms West
Condominium Association, Inc., a Florida non-profit corporation, on behalf of said
corporation. He is personally known to me or has produced _____
as identification.

My Commission Expires:

Kathleen D Starnes
Notary Public



Print/Type Name of Notary

Commission No. _____

Sanibel Arms West Condominium
Amended Rules & Regulations
Supersedes any and all previous Rules & Regulations

ARTICLE I: USE OF UNITS AFFECTING COMMON ELEMENTS

Section 1.1 – Occupancy. Occupancy of units is restricted to residential and vacation rental purposes only. (Declaration 12.3) Occupancy of a unit is limited to a maximum of six (6) people at any one time.

Section 1.2 - No Commercial Use. No business, trade or commercial activities are permitted in any unit or on common areas except for maintenance.

Section 1.3 – Signs and Window Displays. No owner may place a sign or display on his unit or in a window. The association may place signs on the door of a unit designating it smoking/non smoking, etc. For sale or open house signs not exceeding three square feet may be posted at the entrance to the community (road & beach) only during an open house. For sale and open house signs may contain the number of the unit that is for sale and the name of the broker.

Section 1.4 – Association Access to Units. (Declaration 12.4) The Association has an irrevocable right to access to the Units during reasonable hours when necessary for the purpose of maintenance, repair and replacement of the Common Elements or of any portion of a Unit to be maintained by the Association pursuant to this Declaration or for making emergency repairs which are necessary to prevent damage to the Common Elements or to another Unit or Units. The Association's right of access to a Unit shall be exercised after reasonable notice to the Unit Owner, unless such notice is not possible or practical under the circumstances, and with due respect for the occupants' rights to privacy and freedom from unreasonable annoyance, as well as with reasonable precautions to protect the personal property within the Unit. The Association requires and shall retain a pass-key to all Units. No Unit Owner shall alter any lock, nor install a new lock, the effect of which would be to prevent access by the Association when the Unit is unoccupied, unless the Unit Owner provides the Association with a key.

Section 1.5 – Electrical Devices or Fixtures. No electrical device creating electrical overloading of standard circuits may be used. Total electrical usage in any unit will not exceed the capacity of the circuits as labeled.

Section 1.6 – Decorative Displays at Units. Unit owners will not cause or permit anything other than curtains and conventional draperies to be seen through windows and glass doors except appropriate holiday decorations. Unit owners will not cause or display anything on the outside of windows or outside the unit (including porches) except one portable removable U.S. Flag and appropriate holiday decorations.

Section 1.7 – Hurricane Shutters. Installation of Hurricane Shutters requires approval from the Board of Directors and must be the white roll down style. All shutters must

comply with Sanibel Building Code as well as any other applicable code at the time of installation.

Section 1.8 – Use of Porches. The unit owner will keep porches (front and back) clean. Only appropriate porch furniture and accessories shall be on porches. There shall be no storage of personal property on the porches except for beach chairs. Porches shall not be enclosed except as provided by the Board of Directors.

Section 1.9 – Altering or Painting Exteriors. Owners will not alter the exterior of any unit (such as but not limited to doors, screens, floor coverings, lighting) without the prior consent of the Board of Directors. Nor will owners paint, stain or otherwise change the color of any exterior portion of any building without the prior consent of the Board of Directors.

Section 1.10 – Maintenance of Unit Exteriors. Unit owners will maintain, repair and replace windows and glass panels, doors except exterior paint, porch and window screens, in accordance with section 1.9 above. (Declaration 6.2.1)

Section 1.11 – Maintenance and Cleanliness. Unit owners will keep their units in a good state of repair and cleanliness and will perform maintenance which if not done may affect other owners or the common elements and will keep their units in a good state of cleanliness to prevent conditions constituting a danger or nuisance to the common elements or other units.

ARTICLE II: GENERAL USE OF COMMON ELEMENTS

Section 2.1 – Obstructions/Storage. There will be no obstruction of the common elements including ingress and egress (e.g. walkways, roads, and aisles of the storage area) and nothing will be stored by unit owners/occupants outside the units without the prior consent of the Board of Directors except in storage units. (See Article XIV)

Section 2.2 – Proper Use. Common elements will be used only for the purposes for which they were designed. No person will commit waste on the common elements or interfere with their proper use by others, or commit any vandalism, boisterous or improper behavior on the common elements, which interferes with or limits the enjoyment of the common elements by all others.

Section 2.3 – Additions To, Appurtenances To, and Appearance of Buildings. No appurtenant alterations, additions or improvements may be made to the common elements without prior consent of the Board of Directors. No clothes, sheets, blankets, laundry or any other kind of articles except holiday decorations can be hung out of a building, exposed or placed on the outside walls or doors of a building or lawn or trees. No sign (except as permitted in 1.3 above), awning, canopy, shelter (except approved hurricane shutters), antennas or satellite dish (except as permitted by law) will be affixed to or placed upon the exterior walls, doors, porch, roof or any part thereof or exposed on or at any window.

Section 2.4 – Barbecuing. Outside cooking is restricted to designated grilling areas only up until 9:00 p.m. EST.

Section 2.5 – Sun Deck. The sun deck will be used for sunning only. No other activities are permitted.

ARTICLE III: ACTIONS OF OWNERS, OCCUPANTS AND GUESTS

Section 3.1 – Annoyance or Nuisance. No noxious, offensive, dangerous or unsafe activity will be carried on in any unit, or the common elements nor will anything be done therein either willfully or negligently, which may be or become an unreasonable annoyance to the other unit owners or occupants. No unit owner or occupant will make or permit any disturbing noises by himself, his family, servants, employees, agents and visitors or permit anything to be done by such persons that will interfere with the rights, comforts or convenience of other unit owners or occupants. No unit owner or occupant will play or allow to be played, any musical instrument or operate or allow to be operated any electronic entertainment device at such high volume or in such to the manner that it will cause unreasonable disturbances to other unit owners or occupants. If such sound can be heard and understood by persons of normal sensitivity within other units with door and windows closed it will be considered too loud. Designated very quiet hours for sleeping are between 11 p.m. and 8 a.m. daily.

Section 3.2 – Compliance with the Law. No immoral, improper, offensive, or unlawful use may be made of any unit or common area. Unit owners, occupants and guests will comply with and conform to all applicable laws and regulations of the United States and to all state and local ordinances, rules and regulations. Unit owners will save the association or other unit owners harmless from all fines, penalties, costs and prosecutions for the violation thereof or noncompliance therewith.

Section 3.3 – Pets. No animal, bird or reptile of any kind will be raised, bred or kept in any unit or on any common area by any person, unit owner, occupant, tenant, guests, licensee or invitee. However, a handicapped person may keep a trained animal. "Handicapped" shall have the same meaning as that given under the Fair Housing Amendments Act 1988. "Trained animal" shall mean the animal shall have discernable skills that will enhance the owner's quality of life by discernible alleviating the effect(s) of the alleged handicap by working for the benefit of the disabled person. If a unit owner, occupant, tenant, guest, person, licensee or invitee seeks the sole exemption to this pet restriction, prior to keeping a trained animal on the premises, he or she must notify the Association via certified mail including in such notice (1) reasonable evidence that the animal is properly trained, (2) written confirmation of the formal assertion of the trainer that the animal has been so trained, and (3) a written statement from a licensed physician specializing in the field of the subject disability certifying that the alleged service animal is necessary to ameliorate the effects of the disabled person's disability. The Association shall either grant or deny the request for exemption within fourteen days of receipt of such notice including the required information set forth herein, or may request such further information as reasonably necessary to evaluate the request for exemption. No such animal shall be brought on the premise without advance written approval from the Association. If the Association shall deny the request, the Association

shall set forth the reasons for denial. Should permission be granted, the owner of the trained animal shall indemnify, defend and hold harmless the Association from any claims or liabilities arising from the presence of the trained animal on the Association property.

Section 3.4 – Installation of Clothes Washing Machines and Dryers. No clothes washing machine or clothes dryer may be installed in any unit without the prior consent of the Board of Directors.

Section 3.5 - Installation of Floor tile in a Unit. No floor tile except in kitchens and bathrooms may be installed or replaced in any second floor unit without the prior consent of the Board of Directors. Tile installed in units requires sound suppression to limit sound transmission to other units.

Section 3.6 – Dryer Vent Pipe; Grease Screens on Vented Stove Hoods. All clothes dryers will have dryer vent pipes, which will remain installed. All vented stove hoods will have grease screens installed to prevent grease from accumulating in the vent duct. All screens will be kept clean and in good order. The Association will clean the filter and dryer vent pipes every six- (6) months and the cost will be charged to the owner.

Section 3.7 –Water Heaters. Water heaters shall be replaced no less frequently than every seven- (7) years. The Association will replace hoses and water heaters and the cost will be charged to the owner. (Declaration 6.2.1)

ARTICLE IV: INSURANCE

Section 4.1 – Increase in Rating. Nothing will be done or kept that may increase the rate of insurance of any structure or building or the contents thereof. No unit owner will permit anything to be done or kept in a unit or common area which may result in the cancellation of insurance coverage on any of the buildings or structures, or the contents thereof.

Section 4.2 – Reports of Damage. In the event of damage by fire, accident or otherwise affecting a unit or common area, persons injured by or responsible for the damage and any person having knowledge of the damage must promptly report the damage to the manager or Board of Directors.

ARTICLE V: TRASH AND RECYCLING

Section 5.1 - Trash Storage. Trash may not be stored in or outside any unit in such a manner to create a health hazard, fire or spread of vermin.

Section 5.2 – Trash Deposit Areas. Trash will be deposited only in the designated receptacles in the rooms beneath the stairways of buildings (A-M).

Section 5.3 – Recycling. Recyclable material will be deposited only in the bins set up in the enclosed fenced areas by the “H” and “A” buildings and between the “L” and

"K" buildings. Bins are available for brown, clear and green glass, clear plastic, aluminum can and newspapers. Please do not put these recycled items in the trash room under the stairways.

ARTICLE VI: MOTOR VEHICLES

Section 6.1 – Compliance with Law. All persons operating a motor vehicle on Association roads will comply with state laws and Department of Motor Vehicle regulations.

Section 6.2 – Registration. All vehicles of owners, occupants, employees and agents regularly using the premises must be registered with the manager and all vehicles parking must either display a vehicle parking sticker or a guest parking pass. A special pass card will identify construction and supplier vehicles not registered.

Section 6.3 – Registration Application. The manager will register vehicles on a special application form. The form will provide that registered vehicles parked in other than designated parking areas may be towed at the owners' expense.

Section 6.4 – Handicapped Spaces. From time to time the Board of Directors may designate certain parking spaces as handicapped for the use of owners, occupants and guests while in residence. The spaces so designated will be in close proximity to the unit being occupied and will be removed when the handicapped person is not in residence. Permanent spaces will be provided for those units designated as Handicapped Accessible.

Section 6.5 – Guest Pass. Vehicles parked on the property for more than eight hours without a guest pass (or parking sticker) will be deemed trespassers and may be removed. Guest passes will be issued to residents upon request.

Section 6.6 – Parking. Each Unit Owner shall have the privilege of using unassigned parking spaces on a first come basis. The types of vehicles that may be parked in such spaces shall be as set forth in the Rules and Regulations.

Section 6.7 - Speed Limit. The speed for motor vehicles is 5 miles per hour on Association roads.

Section 6.8 – Improper Parking. Motor vehicles including motorcycles and mopeds parked in other than designated parking areas may be towed at the owners' expense after reasonable efforts to contact the person to whom the vehicle is registered.

Section 6.9 – Owner Parking While Not in Residence. Motor Vehicles left by owners will be parked in designated spaces only. Automobiles and similar vehicles must be of a size to fit in a normal automobile designated space.

Section 6.10 – Mobile Homes/RV/Live-In Vehicles. Motor homes/RV/Live-in vehicles are not permitted.

ARTICLE VII: NON MOTORIZED WHEELED VEHICLES

Section 7.1 – Bicycles. Bicycles will be ridden on roadways only. Bicycles will be parked only in the racks provided.

Section 7.2 – Rollerblades. Rollerblades will be used on roadways only.

Section 7.3 – Skateboards and Scooters. Skateboards and scooters will be used on roadways only.

ARTICLE VIII: GENERAL ADMINISTRATIVE RULES

Section 8.1 – Consent in Writing. Any consent or approval required by these rules must be obtained in writing prior to undertaking the action to which it refers.

Section 8.2 – Delegation of Consent or Approval. Any consent or approval required of the Board of Directors may be delegated in writing to a properly appointed committee or employee.

Section 8.3 - Construction by Unit Owner. Unit owners must notify the Association of any construction to be done in their unit. This is to help manage problems that may arise with other unit owners or occupants.

Section 8.4 – Registration of Construction Workers/Company. Anyone working in a unit including but not limited to carpenters, electricians, plumbers, HVAC persons, carpet layers, tile setters and glaziers must register with the Association at the office before commencing work.

Section 8.5 – Construction Hours. Construction work in a unit must be done only between the hours of 8:30 a.m. and 4:30 p.m. Monday through Saturday unless the Association upon request permits other hours.

ARTICLE IX: GENERAL RECREATION RULES

Section 9.1 – Limited to Occupants and Guests. Use of open space is limited to use of unit owners, occupants and guests.

Section 9.2 – Boisterous, Dangerous Behavior Prohibited. Boisterous, dangerous or rough activities or behavior that interferes with others is prohibited.

ARTICLE X: SWIMMING POOL

A. STATE REGULATIONS

1. No food, drink, or glass in the pool or on pool deck.
2. All persons must shower before entering the pool.
3. No diving

B. ASSOCIATION REGULATIONS

Section 10.1 – Use of Pool. Use of pool is for owners, occupants and guests only. Persons who have not passed the Red Cross certified “swimmers” course or who do not

have equivalent experience should not be allowed in the pool area unless accompanied by a responsible person capable of assistance in the event of injury or incapacity. Persons who are not toilet trained or who are incontinent may not use the pool unless wearing proper garments.

Section 10.2 – Prohibited Items. Balls and floats are not allowed.

ARTICLE XI: TENNIS COURTS

Section 11.1 - Use. Tennis Courts are for the use of owners, occupants and guests only. Use is on a "first come first serve basis" and a sign up sheet is available at the courts. Only tennis is permitted on the courts and no other activities are allowed.

ARTICLE XII: BOAT TRAILERS AND BOAT DOCK

Section 12.1 – Boat Trailers. Boat trailers will not be permitted to be parked on Association property.

Section 12.2 – Boat Docking. Dockage for boats is available on a first come first serve basis. Boat docking is for owners and guests, while in residence at Sanibel Arms West and occupants.

ARTICLE XIII: LAUNDRY FACILITY

Section 13.1 – Use. The laundry facility with coin operated machines located near the pool area is for the use of owners and occupants only.

Section 13.2 – Hours. The laundry facility hours are 8:00 a.m. – 10:00 p.m. daily.

ARTICLE XIV: STORAGE ROOMS

Section 14.1 – Use. Each storage room is for the exclusive use of the owner to whom it is assigned. All possessions are to be kept in the assigned storage room and not in the aisles.

Section 14.2 – Safety. For the safety of the building and the possessions of the owners, no flammable liquids, such as gasoline, charcoal lighter fluid or other dangerous substances may be stored in a storage room.