

This Instrument Was Prepared By:  
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4001 Tamiami Trail North, Suite 300  
Naples, Florida 34103

Re: **GOODETTE COLEMAN ET AL**  
**4001 TAMAMIAMI TRAIL NORTH #300**  
**NAPLES FL 34103**

**DECLARATION OF CONDOMINIUM**

**OF**

**MANGO BAY I AT BRIDGEWATER BAY, A CONDOMINIUM**

MADE this 19<sup>th</sup> day of October, 2001, by LB/P-Groeway, LLC, a Delaware limited liability company, hereinafter called "Developer", for itself and its successors, grantees and assigns.

WHEREIN Developer owns the fee simple interest in certain real property, hereinafter described, intends to convert said real property to the condominium form of ownership, and makes the following declarations:

1. **THE LAND:** Developer owns certain real property located in Collier County, Florida, as more particularly described as Parcel A, Parcel B, Parcel C and Parcel D in Exhibit "A-1" through and including "A-4" respectively, attached hereto and incorporated herein by this reference (the "Land").
2. **SUBMISSION STATEMENT:** Developer hereby submits the Land and all improvements erected or to be erected thereon, all easements, rights and appurtenances belonging thereto, and all other property, real, personal or fixed, located on and intended for use in connection therewith, to the condominium form of ownership and use in the manner provided by the Florida Condominium Act as it exists on the date of the recording of this Declaration; excluding therefrom, however, any public utility installations, cable television lines, and other similar equipment that are owned by the utility furnishing services to the Condominium. The covenants and restrictions contained in this Declaration shall run with the land and be binding upon and inure to the benefit of all present and future owners of condominium parcels. The acquisition of title to a unit, or any other interest in the condominium property, or the lease, occupancy, or use of any portion of the condominium property shall constitute an acceptance and ratification of all provisions of this Declaration as it may be amended from time to time, and shall signify agreement to be bound by its terms.

Mango Bay I at Bridgewater Bay, a Condominium contains sixteen (16) residential units in four (4) two-story buildings. Each building contains four (4) coach home units.

3. **NAME:** The name by which this condominium shall be identified is Mango Bay I at Bridgewater Bay, a Condominium (the "Condominium").

4. **DEFINITIONS:** The terms used in this Declaration and its exhibits shall have the meanings stated below and in Chapter 718, Florida Statutes, (The "Condominium Act"), unless the context otherwise requires.

4.1 "Architectural Review Committee" or "ARC" means the committee formed pursuant to the Community Declaration to maintain the quality and architectural harmony of improvements within Bridgewater Bay.

4.2 "Assessment" means a share of the funds required for the payment of common expenses which from time to time is assessed against the units.

4.3 "Association" means Mango Bay I at Bridgewater Bay Condominium Association, Inc., a Florida corporation not for profit, the entity responsible for the operation of this condominium. The Association is a "Neighborhood Association", as defined in the Community Documents.

4.4 "Association Property" means all property, real or personal, owned or leased by the Association for the use and benefit of the unit owners.

4.5 "Board of Directors" or "Board" means the representative body which is responsible for the administration of the Association's affairs, and is the same body referred to in the Condominium Act as the "Board of Administration".

4.6 "Bridgewater Bay" means the name given to the master planned community being developed on the Properties by Declarant in Collier County in accordance with the Community Documents.

4.7 "Community Association" means the Bridgewater Bay Property Owner's Association, Inc., a Florida corporation not for profit. By acquisition of title to a unit in the Condominium, each unit owner automatically becomes a member of the Community Association as further described in the Community Documents. Each unit shall be obligated for assessments and other charges levied by the Community Association, such amounts to be collected by the Association as a common expense. Membership has only those rights and privileges contained in the Community Documents and in the rules promulgated by the Community Association. All unit owners in the Condominium shall be Class "A" members of the Community Association.

4.8 "Community Declaration" means the Declaration of Covenants, Conditions, Restrictions and Easements for Bridgewater Bay, as originally recorded in Official Records 2690, at Pages 896 through 977 inclusive, of the Public Records of Collier County, Florida as it may be amended from time to time.

4.9 "Community Documents" means the Community Declaration and all recorded exhibits to it, including the Articles of Incorporation and Bylaws of the Community Association, all as amended from time to time.

4.10 "Condominium Documents" means and includes this Declaration and all recorded exhibits hereto, as amended from time to time.

4.11 "Developer" means LB/P-Groeway, L.L.C, a Delaware limited liability company, its grantees, successors and assigns. Developer shall have the right to assign any and all of the rights and privileges reserved for Developer under this Declaration. A unit owner, solely by the purchase of a unit, shall not be deemed a successor or assign of Developer or of the rights of Developer under the condominium.

documents or by law unless such unit owner is specifically so designated as a successor or assign of such rights in the instrument of conveyance or any other instrument executed by Developer.

4.12 "Family" or "Single Family" shall refer to any one of the following:

- (A) One natural person.
- (B) Two or more natural persons who commonly reside together as a single housekeeping unit, each of whom is related by blood, marriage or adoption to each of the others.
- (C) Two or more natural persons meeting the requirements of (B) above, except that there is among them not more than one person who is not related to some or all of the others.

4.13 "Guest" means any person (other than the unit owner and his family), who is physically present in, or occupies a unit on a temporary basis at the invitation of the owner or other legally permitted occupant, without the payment of consideration. "Temporary" means not longer than sixty (60) days in any calendar year.

4.14 "Institutional Mortgagee" shall refer to any one of the following:

- (A) A lending institution holding a mortgage encumbering a unit, including without limitation any of the following types of institutions or entities: a federal or state savings and loan or building and loan association, a bank chartered by a state or federal government, a real estate investment trust, a pension and profit sharing trust, a mortgage company doing business in the State of Florida, or a life insurance company doing business in Florida which is approved by the Commissioner of Insurance of the State of Florida.
- (B) A governmental, quasi-governmental or private company that is engaged in the business of making, purchasing, holding, guaranteeing or insuring residential mortgages, including without limitation the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration and the Department of Urban Development.
- (C) Developer and any investors and lenders, or the successors and assigns of such investors and lenders, who have loaned money to Developer to acquire land comprising the Condominium or to construct improvements, and who have a first mortgage lien on all or a portion of the Condominium securing such loan.

4.15 "Lease" means the grant by a unit owner of a temporary right of use of the owner's unit for valuable consideration.

4.16 "Legal Fees" means: (i) reasonable fees for attorney and paralegal services incurred in negotiation and preparation for litigation, whether or not an action is actually begun, through and including all trial and appellate levels and post-judgment proceedings; and (ii) court costs through and including all trial and appellate levels and post-judgment proceedings.

4.17 "Limited Common Elements" means and includes those common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

4.18 "Occupy", when used in connection with a unit, means the act of staying overnight in a unit. "Occupant" is a person who occupies a unit.

4.19 "Primary Institutional Mortgagee" means that institutional mortgagee which, at the time a determination is made, holds first mortgages on more units in the Condominium than any other institutional mortgagee, such determination to be made by reference to the number of units encumbered, and not by the dollar amount of such mortgages.

4.20 "Properties" means the real property described as such in to the Community Declaration, together with any additional property subjected to the Community Declaration from time to time.

4.21 "Rules and Regulations" means those rules and regulations promulgated by the Board of Directors, governing the use of the common elements and the operation of the Association.

4.22 "Unit Owner" or "Owner" means the record owner of a fee simple interest in a unit in this Condominium.

**5. DESCRIPTION OF IMPROVEMENTS; SURVEY AND PLANS:**

5.1 Survey and Plot Plan. Attached hereto as part of Exhibit "B", and incorporated by reference herein, are a survey of the Land, and a plot plan, which graphically describe the improvements in which units are located, and which show all the units, including their identification numbers, locations and approximate dimensions and the common elements and limited common elements. Together with this Declaration, the exhibit is in sufficient detail to identify each unit, the common elements, limited common elements, and their relative locations and dimensions. No unit bears the same designation as any other unit in the Condominium.

5.2 Unit Boundaries. Each unit shall include that part of the building that lies within the following boundaries:

(A) Upper and Lower Boundaries. The upper and lower boundaries of the unit shall be the following boundaries extended to their intersections with the perimeter boundaries:

- (1) Upper Boundaries. The horizontal plane of the unfinished lower surface of the ceiling of the unit.
- (2) Lower Boundaries. The horizontal plane of the unfinished upper surface of the floor of the unit.

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

- (C) Interior Walls. No part of the non-structural interior partition walls within a unit shall be considered part of the boundary of a unit.
- (D) Apertures. Where there are openings in any boundary, including, without limitation, windows, doors and skylights, the boundaries of the unit shall extend to the interior unfinished surfaces of the coverings of such openings, and their frameworks thereof. Therefore, windows, doors, skylights, screens and all framing, casings and hardware therefor, are excluded from the unit.
- (E) Utilities. The unit shall not be deemed to include any pipes, wiring, ducts or other utility installations that are physically within the above-described boundaries, but which serve other units or the common elements. Such utility installations shall be common elements.

In cases not specifically covered in this Section 5.2, or in any case of conflict or ambiguity, the graphic depictions of the unit boundaries set forth in Exhibit "B" hereto shall control in determining the boundaries of a unit, except the provisions of 5.2(D) above shall control over Exhibit "B".

## **6. CONDOMINIUM PARCELS; APPURTENANCES AND USE:**

6.1 Shares of Ownership. The owner of each unit shall also own an undivided share in the common elements and the common surplus. Each unit in the Condominium shall have a 1/16th undivided share in the common elements and common surplus.

6.2 Appurtenances to Each Unit. The owner of each unit shall have certain rights and own a certain interest in the condominium property, including without limitation the following:

- (A) An undivided ownership share in the Land and other common elements and the common surplus, as specifically set forth in Section 6.1 above.
- (B) Membership and voting rights in the Association, which shall be acquired and exercised as provided in the Articles of Incorporation and Bylaws of the Association, attached hereto as Exhibits "C" and "D", respectively.
- (C) The exclusive right to use the limited common elements reserved for the unit, and the non-exclusive right to use the common elements and association property.
- (D) An exclusive easement for the use of the airspace occupied by the unit as it exists at any particular time and as the unit may lawfully be altered or reconstructed from time to time. An easement in airspace which is vacated shall be terminated automatically.
- (E) Class "A" Membership rights in the Community Association with all rights and obligations provided in the Community Documents.
- (F) Other appurtenances as may be provided by law or by this Declaration.

Each unit and its appurtenances constitutes a "condominium parcel".

6.3 Use and Possession. A unit owner is entitled to exclusive use and possession of his unit. An owner is entitled to use the common elements and association property in accordance with the purposes for which they are intended, but no use of the unit or of the common elements and association property may unreasonably interfere with the rights of other unit owners or other persons having rights to use the condominium property. No unit may be divided, and no fractional portion sold, leased or otherwise transferred. The use of the units, common elements and limited common elements shall be governed by the condominium documents and by the rules and regulations adopted by the Board of Directors, as set forth in the Bylaws.

## 7. COMMON ELEMENTS; EASEMENTS:

7.1 Definition. The term "common elements" means all of the property submitted to condominium ownership that is not within the unit boundaries set forth in Section 5 above. The common elements include without limitation the following:

- (A) The Land.
- (B) All portions of the buildings and other improvements on the Land not included within the units, including limited common elements.
- (C) Easements through each unit for conduits, ducts, plumbing, wiring, and other facilities for furnishing utility services to units and the common elements.
- (D) An easement of support of every portion of the Condominium which contributes to the support of a building.
- (E) The fixtures and installations required for furnishing utilities and other services to more than one unit or to the common elements.

7.2 Easements. Each of the foregoing easements and easement rights is reserved through the condominium property and is a covenant running with the land of the Condominium, and notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any land from the Condominium. None of these easements may be encumbered by any leasehold or lien other than those on the condominium parcels. Any lien encumbering these easements shall automatically be subordinate to the rights of unit owners with respect to such easements.

- (A) Utility and other Easements. The Association has the power, without the joinder of any unit owner, to grant easements such as electric, gas, cable television, or other utility or service easements, or relocate any existing access easements in any portion of the common elements as the Association shall deem necessary or desirable for the proper operation and maintenance of the Condominium. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with the use of the units. The Association may also transfer title to utility-related equipment, facilities or material, and take any other action to satisfy the requirements of any utility company or governmental agency to which any such utility-related equipment, facilities or material are to be so transferred.

- (B) **Encroachment.** If any unit encroaches upon any of the common elements or upon any other unit for any reason other than the intentional act of the unit owner, or if any common element encroaches upon any unit, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.
- (C) **Ingress and Egress.** A non-exclusive easement shall exist in favor of each unit owner and occupant, their respective guests and invitees for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portions of the common elements as from time to time may be intended and designed for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portions of the common elements as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways.
- (D) **Support.** Each unit shall have an easement of support and necessity and shall be subject to an easement of support and necessity in favor of all other units and common elements.
- (E) **Construction; Maintenance.** Developer (including its designees and contractors) shall have the right to enter the condominium property and take any action reasonably necessary or convenient for the purpose of completing the construction thereof, provided such activity does not prevent or unreasonably interfere with the use and enjoyment by the unit owners of the condominium property.
- (F) **Sales Activity.** For so long as it holds any unit for sale in the ordinary course of business, Developer and its designees shall have the right to use, without charge, any units owned by it, the common elements and association property, in order to establish, modify, maintain and utilize, as it and they deem appropriate, model apartments and sales and other offices. Without limiting the generality of the foregoing, Developer and its designees may show model apartments or the common elements and association property to prospective purchasers or tenants, erect signs or other promotional material on the condominium property, and take all other action helpful for sales, leases and promotion of the Condominium. Any models, sales or other offices, signs and any other items pertaining to any sales or leasing efforts shall not be considered part of the common elements and association property and shall remain the property of Developer. Developer reserves the right for itself and any of its affiliates to use the models and office(s) for other communities located within Bridgewater Bay, as Developer and/or any of Developer's affiliates as developers of other communities may determine, in their sole discretion, to the extent permitted by law.

7.3 **Restraint Upon Separation and Partition.** The undivided share of ownership in the common elements and common surplus appurtenant to a unit cannot be conveyed or encumbered separately from the unit and shall pass with the title to the unit, whether or not separately described. No owner may maintain an action for partition of the common elements. The shares in the funds and assets of the Association cannot be assigned, pledged or transferred except as an appurtenance to the units.

**8. LIMITED COMMON ELEMENTS:**

**8.1 Description of Limited Common Elements.** Certain common elements have been, or may be, designated as limited common elements, reserved for the use of a particular unit or units, to the exclusion of the other units. The limited common elements and the units to which their exclusive use is appurtenant, are as described in this Declaration and as further identified on the attached survey and plot plan. The following common elements are hereby designated as limited common elements:

- (A) Air Conditioning and Heating Equipment. All equipment, fixtures and installations located outside of a unit, which furnish air conditioning or heating exclusively to that unit, shall be limited common elements, the exclusive use of which is appurtenant to the unit, maintained, repaired and replaced by, and solely at the expense of, the owner of the unit.
- (B) Veranda. Any veranda attached to and serving exclusively a unit shall be a limited common element.
- (C) Garages. There are shown on Exhibit "B" certain two (2) car garages as limited common elements. Each unit shall have the exclusive right to use the garage assigned to it. Maintenance of the interior spaces within a garage, including electrical installations, and of the rear entrance door, the hardware and interior surface of the overhead door, and the automatic door opener, shall be the unit owner's responsibility. Maintenance of the exteriors, overhead doors, roofs and structural components of the garages shall be by the Association as a common expense.
- (D) Entries and Stairs. Any entries, stairways, stairwells and railings which are attached to and which exclusively serve particular units are limited common elements for the exclusive use of the units which they serve as shown on Exhibit "B". The maintenance, repair and replacement thereof shall be the responsibility of the Association and shall be a common expense.
- (E) Others. Any part of the common elements that is connected to or exclusively serves a single unit, and is specifically required in Section 11 of this Declaration to be maintained, repaired or replaced by or at the expense of the unit owner, shall be deemed a limited common element, whether specifically described above or not.

**9. ASSOCIATION:** The operation of the Condominium is by Mango Bay I at Bridgewater Bay Condominium Association, Inc., a Florida corporation not for profit, which shall perform its functions pursuant to the following:

**9.1 Articles of Incorporation.** A copy of the Articles of Incorporation of the Association is attached hereto as Exhibit "C".

**9.2 Bylaws.** The Bylaws of the Association shall be the Bylaws attached as Exhibit "D" as they may be amended from time to time.



9.3 Delegation of Management. The Board of Directors may contract for the management and maintenance of the condominium property and authorize a licensed management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of assessments, keeping of records, enforcement of rules, and maintenance, repair and replacement of the common elements with the funds made available by the Association for such purposes. The Association and its Directors and officers, however, shall retain at all times the powers and duties provided in the Condominium Act.

9.4 Membership. The membership of the Association shall be comprised of owners of the units, as further provided in the Bylaws.

9.5 Acts of the Association. Unless the approval or affirmative vote of the unit owners is specifically made necessary by some provision of the Condominium Act or these condominium documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board of Directors, without a vote of the unit owners. The officers and Directors of the Association have a fiduciary relationship to the unit owners. A unit owner does not have the authority to act for the Association by reason of being a unit owner.

9.6 Powers and Duties. The powers and duties of the Association include those set forth in the Condominium Act and the condominium documents. The Association may contract, sue, or be sued with respect to the exercise or nonexercise of its powers and duties. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the condominium property and association property. The Association may impose fees for the use of common elements or association property. The Association has the power to enter into agreements to acquire leaseholds, memberships and other ownership, possessory or use interests in lands or facilities, whether or not the lands or facilities are contiguous to the lands of the Condominium for the use and enjoyment of the unit owners.

9.7 Official Records. The Association shall maintain its official records as required by law. The records shall be open to inspection by members or their authorized representatives at all reasonable times. The right to inspect the records includes a right to make or obtain photocopies at the reasonable expense of the member seeking copies.

9.8 Purchase of Units. The Association has the power to purchase units in the Condominium and to hold, lease, mortgage, or convey them, such power to be exercised by the Board of Directors.

9.9 Acquisition of Property. The Association has the power to acquire property, both real and personal. The power to acquire personal property shall be exercised by the Board of Directors. Except as otherwise provided in 9.8 above, the power to acquire ownership interests in real property shall be exercised by the Board of Directors, but only after approval by at least a majority of the voting interests.

9.10 Disposition of Property. Except as provided in Section 9.8 above, any property owned by the Association, whether real, personal or mixed, may be mortgaged, sold, or otherwise encumbered or disposed of by the affirmative vote of a majority of the entire Board of Directors, without need for authorization by the unit owners. The Board of Directors, by the same vote requirement, is empowered to delegate any of its functions or convey any of its property to any governmental unit as may be required or deemed necessary from time to time.

9.11 Roster. The Association shall maintain a current roster of names and mailing addresses of unit owners. A copy of the roster shall be made available to any member upon request.

9.12 Member Approval of Certain Litigation. Notwithstanding any other provisions of the condominium documents to the contrary, the Board of Directors shall be required to obtain the prior approval of at least three-fourths (3/4ths) of all voting interests prior to the payment of, or contracting for the payment of, legal or other fees or expenses to any person engaged by the Association in contemplation of a lawsuit or for the purposes of making, preparing or investigating any lawsuit, or commencing any lawsuit, other than for the following purposes:

- (A) the collection of assessments;
- (B) the collection of other charges which owners are obligated to pay pursuant to the condominium documents;
- (C) the enforcement of the use and occupancy restrictions contained in the condominium documents and rules of the Association;
- (D) the enforcement of any restrictions on the sale, lease and other transfer of units;
- (E) in an emergency, when waiting to obtain the approval of the members creates a substantial risk of irreparable injury to the Association, its members or the condominium property, but, in such event, the aforesaid vote shall be taken with respect to the continuation of the action at the earliest practical date (the imminent expiration of a statute of limitations shall not be deemed an emergency obviating the need for the requisite vote of three-fourths (3/4ths) of the voting interests); or
- (F) filing a compulsory counterclaim.

This Section 9.12 shall not be amended without the approval of at least three-fourths (3/4ths) of all voting interests.

9.13 Indemnification. The Association covenants and agrees that it will indemnify and hold harmless Developer and the members of the Board from and against any and all claims, suits, actions, damages, and/or causes of action arising from any personal injury, loss of life, and/or damage to property sustained in or about condominium property, association property or the appurtenances thereto from and against all costs, legal fees, expenses and liabilities incurred in and about any such claim, the investigation thereof or the defense of any action or proceeding brought thereon, and from and against any orders, judgments and/or decrees which may be entered therein. Included in the foregoing provisions of indemnification are any expenses that Developer may be compelled to incur in bringing suit for the purpose of compelling the specific enforcement of the provisions, conditions and covenants contained in this Declaration to be kept and performed by the Association.

10. ASSESSMENTS AND LIENS: The Association has the power to levy and collect assessments against each unit and unit owner in order to provide the necessary funds for proper operation and management of the condominium and for the operation of the Association. This power includes both "regular" assessments for each unit's share of the common expenses as set forth in the annual budget, and "special" assessments for unusual, non-recurring or unbudgeted common expenses. The Association may

also levy special charges against any individual unit for any amounts, other than for common expenses, which are properly chargeable against such unit under this Declaration or the Bylaws. Assessments shall be levied and payment enforced as provided in Section 6 of the Bylaws, and as follows:

10.1 Common Expenses. Common expenses include all expenses of the operation, maintenance, repair, replacement or insurance of the common elements and association property, the expenses of operating the Association, and any other expenses properly incurred by the Association for the Condominium, including any amounts budgeted for the purpose of funding reserve accounts. The cost of water and sewer service to the units shall be a common expense. Assessments levied by the Community Association shall be a common expense. If the Board of Directors contracts for basic cable or satellite television programming service in bulk for the entire Condominium, the costs of such service shall be a common expense to the extent permitted by law. Bulk contracts, however, may be entered into by the Community Association for such services. EACH UNIT OWNER ACKNOWLEDGES THAT ANY WATER PROVIDED FOR IRRIGATION PURPOSES MAY BE UNTREATED WATER OR TREATED EFFLUENT REUSE WATER. NEITHER DEVELOPER NOR ASSOCIATION SHALL BE RESPONSIBLE FOR THE QUALITY OF WATER PROVIDED FOR SUCH IRRIGATION PURPOSES.

10.2 Share of Common Expenses. The owner of each unit shall be liable for a share of the common expenses equal to his share of ownership of the common elements and the common surplus, as set forth in Section 6.1 above.

10.3 Ownership. Assessments and other funds collected by or on behalf of the Association become the property of the Association; no unit owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his unit. No owner can withdraw or receive distribution of his share of the common surplus, except as otherwise provided herein or by law.

10.4 Who is Liable for Assessments. The owner of each unit, regardless of how title was acquired, is liable for all assessments or installments thereon coming due while he is the owner. Multiple owners are jointly and severally liable. Except as provided in Section 20.3 below, whenever title to a condominium parcel is transferred for any reason, the transferee is jointly and severally liable with the transferor for all unpaid assessments against the transferor, regardless of when incurred, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee.

10.5 No Waiver or Excuse from Payment. The liability for assessments may not be avoided or abated by waiver of the use or enjoyment of any common elements or association property, by abandonment of the unit on which the assessments are made, or by interruption in the availability of the unit or the common elements for any reason whatsoever. No unit owner may be excused from payment of his share of the common expenses unless all unit owners are likewise proportionately excused from payment, except as otherwise provided in Section 20.3 below as to certain mortgagees, and in Section 10.12 below as to Developer. Nothing herein shall be construed to prevent the Association from compromising or settling a past due assessment claim for less than full payment, if the Board determines that such action is in the best interest of the Association.

10.6 Application of Payments; Failure to Pay Interest. Assessments and installments thereon paid on or before ten (10) days after the date due shall not bear interest, but all sums not so paid shall bear interest at the highest rate allowed by law, calculated from the date due until paid. The Association may also impose a late payment fee (in addition to interest) to the extent permitted by law. Assessments and installments thereon shall become due, and the unit owner shall become liable for said assessments or installments on the

date established in the Bylaws or otherwise set by the Board of Directors for payment. All payments on account shall be applied first to interest, then to late payment fees, and attorney's fees and costs, and finally to unpaid assessments, in such manner as is provided by law. No payment by check is deemed received until the check has cleared.

10.7 Acceleration. If any special assessment or installment of a regular assessment as to a unit becomes more than thirty (30) days past due, and a Claim of Lien is recorded, the Association shall have the right to accelerate the due date of the entire unpaid balance of the unit's annual assessment and all special assessments for that fiscal year. The due date for all accelerated amounts shall be the date the Claim of Lien was recorded in the public records. The Association's Claim of Lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, attorney's fees and costs as provided by law; and said Claim of Lien shall not be satisfied or released until all sums secured by it have been paid. The right to accelerate shall be exercised by sending to the delinquent owner a notice of the exercise, which notice shall be sent by certified or registered mail to the owner's last known address, and shall be deemed given upon mailing of the notice, postpaid. The notice may be given as part of the notice of intent to foreclosure, as required by Section 718.116 of the Condominium Act, or may be sent separately.

10.8 Liens. The Association has a lien on each condominium parcel securing payment of past due assessments, including interest and attorney's fees and costs incurred by the Association incident to the collection of the assessment or enforcement of the lien, whether before, during or after a lien foreclosure suit. The lien is perfected upon recording a Claim of Lien in the Public Records of Collier County, Florida, stating the description of the condominium parcel, the name of the record owner, the name and address of the Association, the assessments past due and the due dates. The lien is in effect until barred by law. The Claim of Lien secures all unpaid assessments coming due prior to a final judgment of foreclosure. Upon full payment, the person making the payment is entitled to a satisfaction of the lien.

10.9 Priority of Lien. The Association's lien for unpaid assessments shall be subordinate and inferior to any recorded first mortgage or mortgage of Developer unless the Association's Claim of Lien was recorded prior to the mortgage. The Association's lien shall be superior to, and take priority over, any other mortgage or lien regardless of when the mortgage was recorded, except as otherwise provided by law. Any lease of a unit shall be subordinate and inferior to the Association's lien, regardless of when the lease was executed.

10.10 Foreclosure of Lien. The Association may bring an action in its name to foreclose its lien for unpaid assessments in the manner provided in the Condominium Act, and may also bring an action to recover a money judgment for the unpaid assessments without any lien rights.

10.11 Certificate as to Assessments. Within fifteen (15) days after receiving a written request by a unit owner, unit purchaser or mortgagee, the Association shall provide a certificate (sometimes referred to as an "estoppel letter") stating whether all assessments and other monies owed to the Association by the unit owner with respect to the condominium parcel have been paid. Any person other than the owner who relies upon such certificate shall be protected thereby.

10.12 Statutory Assessment Guarantee; Liability of Developer for Common Expenses. Developer guarantees that from the date this Declaration is recorded in the Public Records of Collier County, Florida until December 31, 2001 or such earlier date as unit owners other than the Developer first elect a majority of the Directors of the Association (the "turnover date") assessments against unit owners for common expenses will not exceed \$1,035.00 per quarter (\$345.00 per month). If the turnover date has not occurred

