

EXHIBIT "D"

BY-LAWS

OF

TUSCANY AT HAMMOCK DUNES CONDOMINIUM ASSOCIATION, INC.

1. GENERAL.

1.1. IDENTITY. These are the By-Laws of Tuscany at Hammock Dunes Condominium Association, Inc., a non-profit Florida corporation formed for the purpose of administering Tuscany at Hammock Dunes, a Condominium ("Condominium"), which will be located in Palm Coast, Flagler County, Florida, upon the land described in Exhibit "A" to the Declaration of Condominium of Tuscany at Hammock Dunes, a Condominium (the "Declaration"). (The corporation shall hereafter be referred to as the "Association.") Capitalized terms not otherwise defined by these By-Laws shall have the meaning ascribed to such terms in the Declaration.

1.2. OFFICE. The office of the Association shall be at the Condominium or such other location within Flagler County, Florida as may from time to time be determined by the Board of Directors.

1.3. FISCAL YEAR. The fiscal year of the Association shall be the calendar year, unless otherwise determined by the Board of Directors.

1.4. SEAL. The seal of the Association shall be circular in shape, bear the abbreviated name of the Association, the word "Florida," and the year of establishment, 200__.

2. VOTING.

2.1. NUMBER OF VOTES. The Unit Owner or Unit Owners of fee simple title of record for each Unit shall have one (1) indivisible vote per Unit ("Voting Interest") in the Association as to matters on which a vote by the Unit Owners is taken as provided in the Condominium Documents and the Condominium Act. If a Unit Owner owns more than one Unit, the Voting Member for such Units shall be entitled to cast the number of votes for each Unit owned.

2.2. VOTING BY MULTIPLE OWNERS OR ENTITY. If a Unit is owned by more than one person, those persons (including husbands and wives) shall decide among themselves as to who shall act as the Voting Member for the Unit and the Voting Member shall be designated in a certificate signed by all record owners and filed with the Association. If a Unit is owned by more than one person and the co-Owners have elected not to file a certificate designating one of them as a Voting Member, the presence (in person or by proxy) of any one or all of them at a meeting of the Members shall be considered to be the presence of a Voting Member for purposes of determining whether a quorum has been attained at the meeting. If a dispute arises between the co-Owners as to how the vote shall be cast, they shall lose the right to cast their vote on the matter being voted upon, but their vote shall be continued to be counted for the purpose of determining the existence of a quorum. If a Unit is owned by a corporation, limited liability company, general partnership, limited partnership or trust, the Voting Member shall be designated by a certificate signed by an appropriate officer, partner, manager or member or trustee of the entity and filed with the Association. The person designated as the Voting Member need not be a Unit Owner. The certificate shall be filed with the Secretary of the Association. Those certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in

the ownership of the Unit concerned. A certificate designating the person entitled to cast the vote for a Unit may be revoked by any record owner of an undivided interest in the Unit. The person designated as the Voting Member need not be an Owner.

2.3. FAILURE TO FILE CERTIFICATE DESIGNATING THE VOTING MEMBER.

2.3.1. Unit Owners other than the Developer who were required but failed to file a certificate as provided in Section 2.3 shall not be considered Voting Members for purposes of determining whether a quorum has been attained at the meeting, nor shall such Unit Owners be permitted to vote at meetings of the Unit Owners on any issue.

2.3.2. If a Unit is owned by one person, the presence (in person or by proxy) of the Unit Owner at a meeting of the Unit Owners shall be considered to be the presence of a Voting Member for purposes of determining whether a quorum has been attained at the meeting. If a Unit is owned by more than one person and the co-Owners (including husbands and wives) have elected not to file a certificate designating one of them or another person as a Voting Member, the presence (in person or by proxy) of any one or more of them at a meeting of the Unit Owners shall be considered to be the presence of a Voting Member for purposes of determining whether a quorum has been attained at the meeting. If more than one of them are present (in person or by proxy), the votes of any one or more of them on any given issue voted upon at that meeting shall be considered the votes of a single Voting Member; provided, however, if a dispute arises between the co-Owners as to how the vote shall be cast, they shall lose the right to cast their vote on the matter being voted upon, but their vote shall be continued to be counted for the purpose of determining the existence of a quorum.

2.4. **MAJORITY VOTE.** The acts approved by a majority of the votes cast by Voting Members present in person or by proxy at a meeting at which a quorum has been attained shall be binding upon all Unit Owners for all purposes, except where otherwise provided by law, the Declaration, the Articles or these Bylaws. As used in these Bylaws, the Articles or the Declaration, the terms "majority of the Unit Owners" and "majority of the Voting Interests" shall mean a majority of the votes entitled to be cast by the Voting Members present in person or by proxy and voting at any meeting of the Unit Owners at which a quorum shall have been attained and shall not mean a majority of the Voting Members themselves or a majority of the total votes entitled to be cast by all Voting Members. Similarly, if some greater percentage of Voting Members is required herein or in the Declaration or Articles, it shall mean such greater percentage of the votes of Voting Members and not of the Voting Members themselves or of the total votes entitled to be cast by all Voting Members.

3. MEMBERS' MEETINGS

3.1. **ANNUAL MEETINGS.** Annual meetings of the Members shall be held at the Condominium or at such other convenient location, as may be determined by the Board of Directors, no later than the month of April each year, for the purpose of the election of the Board of Directors and for transacting any business authorized to be transacted by the Members.

3.2. **SPECIAL MEETINGS.** Special meetings of the Members shall be held whenever called by the President, Vice President or by a majority of the Board of Directors and when requested by written petition signed and dated from at least twenty-five percent (25%) of the total Voting Interests. Such petition shall state the purpose(s) of the meeting. The business at a special meeting requested by petition shall be limited to the items specified in the petition and contained in the notice of the meeting. If the Board of Directors adopts a budget requiring assessments exceeding one hundred fifteen percent (115%) of the assessments for the preceding year and the Board of Directors receives,

within twenty-one (21) days after adoption of the annual budget, a written request from at least ten percent (10%) of the total Voting Interests, the Board of Directors shall call a special meeting of the Unit Owners to consider and enact a substitute budget. The determination as to whether the assessments exceed one hundred fifteen percent (115%) shall be made in accordance with Section 718.112 (2)(e) of the Condominium Act. Members' meetings to recall a member or members of the Board of Directors may be called by ten percent (10%) of the total Voting Interests. Electronic transmission may not be used as a method of giving notice of a meeting called in whole or in part for purpose of recalling a member or members of the Board of Directors.

3.3. NOTICE OF MEMBERS' MEETINGS. Notice of any meeting of the Members, including the annual meeting, which must include an identification of agenda items, shall be mailed by United States mail, hand-delivered or electronically transmitted to each Unit Owner, unless waived in writing, at least fourteen (14) days prior to the meeting; provided, however, that any election at which one (1) or more of the Board of Directors are to be elected must be noticed as provided for in Section 3.4 and provided further, that electronic transmission may not be used as a method of giving notice of a meeting called in whole or in part for the purpose of recalling a member or members of the Board of Directors. If the notice is mailed, it shall be mailed to each Unit Owner at the address last furnished to the Association by the Unit Owner. However, if a Unit is owned by more than one person, the Association shall provide notice to that one address which the developer initially identifies for that purpose and thereafter as one or more of the owners of the Unit shall so advise the Association in writing, or if no address is given or if the owners of the Unit do not agree, to the address provided in the deed of record. An officer of the Association, or the manager or other person providing notice of the meeting, shall execute an affidavit of mailing or delivery, per Section 718.112(2)(d)(2) of the Condominium Act, 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 fourteen (14) continuous days prior to the meeting. The Board of Directors, 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; however, if there is no Condominium Property or Association Property upon which notices can be posted, this requirement does not apply. In lieu of or in addition to the physical posting of notice of any meeting of the Unit Owners on the Condominium Property, the Association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the Association. However, if broadcast notice is used in lieu of a notice posted physically on the Condominium Property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required by this Section 3.3. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda.

3.4. BOARD ELECTION MEETINGS; NOTICE AND PROCEDURE. The regular or general election shall occur at the time and place at which the annual meeting is scheduled to occur, regardless of whether a quorum is present. Members of the Board of Directors shall be elected by written ballot.

3.4.1. Not less than sixty (60) days before a scheduled election, the Association shall mail, deliver or electronically transmit, whether by separate Association mailing or included in another Association mailing, delivery or transmission, 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 forty (40) days before a scheduled election. Together with the written notice and agenda as set forth in Section 2.3,

the Association shall mail, deliver or electronically transmit a second notice of the election 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 thirty-five (35) days before the election, on one side of a sheet, no larger than 8½ inches by 11 inches, to be included with the mailing, delivery or transmission of the ballot, with the costs of copying and mailing, delivery or electronic transmission 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.

3.4.2. 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 or her ballot and any such ballots improperly cast shall be deemed invalid.

3.4.3. There is no quorum requirement, however, at least twenty percent (20%) of the eligible Voting Interests must cast a valid ballot to have a valid election of the members of the Board of Directors and elections shall be decided by a plurality of those votes cast.

3.4.4. 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 of Directors.

3.4.5. Notwithstanding anything to the contrary 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 that set forth 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.

3.5. **NOTICE; OWNERS BUDGET MEETING.** Notice of a special meeting called by the Board of Directors at the written request of ten percent (10%) of the Unit Owners received within twenty-one (21) days after adoption of the annual budget because of a budget exceeding one hundred fifteen percent (115%) of that of the preceding year requires not less than fourteen (14) days' written notice to each Unit Owner.

3.6. **NOTICES SPECIFIC.** All notices of meetings shall state clearly and particularly the time, place, and purpose or purposes of the meeting and shall incorporate an identification of agenda items.

3.7. **QUORUM.** A quorum at meetings of the Members shall consist of 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 the Condominium Act, or the Condominium Documents require a larger percentage in which case the percentage required in the Condominium Act or the Condominium Documents shall govern.

3.8. **OWNER PARTICIPATION.** Unit Owners shall have the right to participate in meetings of Members with reference to all designated agenda items. However, the Association may adopt reasonable rules governing the frequency, duration and manner of Unit Owner participation. 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 the Division of Florida Land Sales, Condominiums and Mobile Homes.

3.9. **INDIVISIBLE VOTE.** Each Unit shall have one indivisible vote.

3.10. 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 ninety (90) days, and must be filed with the Secretary before or at the voter registration immediately preceding the meeting. Except as specifically otherwise provided in this Section, 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 reporting requirements of the Condominium Act; 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 the Condominium Act requires or permits a vote of the Unit Owners. No proxy, limited or general, shall be used in the election of Board members unless otherwise permitted by Florida Administrative Rule 61B-23.0026(2)(d). 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.

3.11. 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.

3.12. ORDER OF BUSINESS. The order of business at annual meetings of the Members and, as far as applicable at all other meetings of the Members, may be:

- (a) Collection of ballots.
- (b) Checking of signatures and unit identifications on ballot outer envelopes against the eligible voter lists.
- (c) Registering proxies and counting votes.
- (d) Proof of notice of meeting or waiver of notice.
- (e) Calling of the roll.
- (f) Reading and disposal of any unapproved minutes.
- (g) Reports of the Board of Directors.
- (h) Reports of Committees.
- (i) Announcement of the results of the election of Board members.
- (j) Unfinished business.
- (k) New business.
- (l) Adjournment.

4. BOARD OF DIRECTORS

4.1. **NUMBER OF DIRECTORS.** The affairs of the Association shall be governed initially by a Board of Directors composed of three (3) persons appointed by the Developer. The Developer-appointed Board members may be, at the Developer's option, expanded to five (5) persons. The Board of Directors, after turnover of control by the Developer, may consist of three (3) or five (5) persons, as may be determined from time to time by the Voting Interests of the Association.

4.2. **QUALIFICATIONS.** A Director must be a natural person of at least eighteen (18) years of age, but need not be a citizen of the United States of America. All non-Developer Board members shall be Members or spouses of Members, or a shareholder, officer, partner or director of a Member. All officers of a corporation, trust, partnership or other such owner shall be deemed to be Members so as to be eligible for Board of Directors' membership.

4.3. ELECTION OF DIRECTORS.

4.3.1. Subject to the rights of the Developer to appoint members of the Board of Directors as stated, the Board of Directors shall be elected by the Voting Interests at the time and place at which the annual meeting is scheduled to occur regardless of whether a quorum is present.

4.3.2. Until such time as the Unit Owners other than the Developer are entitled to elect one or more members of the Board of Directors as provided below, the Developer shall be entitled to designate and appoint all Directors to serve on the Board (the "First Board"). Directors appointed by Developer shall not be required to be owners or residents of Units in the Condominium. The Developer reserves the right to remove any Director appointed by the Developer and the right to remove any Director designated by the Developer in accordance with these By-Laws. Any successor of Developer designated in the manner provided in the Declaration shall be entitled to the rights of Developer stated in this paragraph.

4.3.3. When Unit Owners other than the Developer own fifteen percent (15%) or more of the Units of the Condominium, the Unit Owners other than Developer shall be entitled to elect no less than one third of the members of the Board of Directors. The Developer shall designate the remaining members of the Board of Directors. The director to be elected by the Unit Owners other than the Developer and the remaining directors to be designated by the Developer are subsequently collectively referred to as the "Initial Elected Board" and shall succeed the First Board upon their election and qualification. Subject to the provisions of Subsection 4.3.4 below, the Initial Elected Board shall serve until the next annual members' meeting, whereupon the directors shall be designated and elected in the same manner as the Initial Elected Board. The directors shall continue to be so designated and elected at each subsequent annual members' meeting until such time as the Unit Owners other than the Developer are entitled to elect not less than a majority of the members of the Board of Directors. The Developer reserves the right, until such time as Unit Owners other than the Developer are entitled to elect not less than a majority of the members of the Board of Directors, to designate successor directors to fill any vacancies caused by the resignation or removal of directors designated by the Developer pursuant to this Subsection 4.3.3.

4.3.4. Unit Owners other than Developer are entitled to elect not less than a majority of the members of the Board of Directors of the Association upon the earlier of: (a) three years after fifty percent (50%) of the Units that will be operated ultimately by the Association have been conveyed to purchasers; (b) three months after ninety percent (90%) of the Units that will be operated ultimately by the Association have been conveyed to purchasers; (c) when all the Units that will be operated ultimately by the Association have been completed, some of them have been conveyed to

purchasers, and none of the others are being offered for sale by Developer in the ordinary course of business; (d) when some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by Developer in the ordinary course of business; (e) seven years after recordation of the Declaration of Condominium; or (f) Developer so declaring by written notice to the members. Developer is entitled to elect at least one member of the Board of Directors as long as Developer holds for sale in the ordinary course of business at least five percent (5%) of the total Units in the Condominium. Following the time that Developer relinquishes control of the Association, Developer may exercise the right to vote any units owned by Developer in the same manner as any other Unit Owner except for purposes of reacquiring control of the Association or selecting the majority members of the Board of Directors.

4.4. TERM OF SERVICE. The term of each Board member's service, except in the case of a vacancy caused by recall, shall extend until the next annual meeting of the members and subsequently until their successor is duly elected and qualified or until a Board member is recalled in the manner provided in the Condominium Act by a majority of the Voting Members entitled to elect such Board member. Notwithstanding the foregoing, any Director designated by the Developer shall serve at the pleasure of the Developer and may be removed and replaced by the Developer at any time. A Board member appointed by the Board of Directors to replace a recalled Board member shall fill the vacancy until the next regularly scheduled election for any position. A seat held by a Board member who ceases to be an owner shall thereby automatically become vacant.

4.5. REMOVAL OF DIRECTORS AND BOARD VACANCIES. Any director elected by the Voting Interests may be recalled and removed, with or without cause, in the manner provided in the Condominium Act. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose in the manner provided in the Condominium Act. Vacancies in the Board of Directors occurring between annual meetings of Members shall be filled by appointment by a majority vote of the remaining Board of 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 Rule 61B-23.0027 (if at a meeting) or with Rule 61B-23.0028 (if by written agreement) of the Florida Administrative Code; provided further that a Board member who has been recalled by the Members may not be appointed to fill the vacancy created by his or her removal; and further provided that following relinquishment of Developer control during the time that both the Developer and Unit Owners other than the Developer have representation on the Board of Directors pursuant to Section 718.301(1)(e) of the Condominium Act, the Developer-appointed Board members may not vote on selecting the majority members of the Board of Directors. A Board member elected or appointed to fill a vacancy shall be elected or appointed for a term specified by law.

4.6. ORGANIZATIONAL MEETING. The organizational meeting of each newly elected Board of Directors shall be properly noticed pursuant to Section 718.112(2)(c) of the Condominium Act and held within ten (10) days of its election at such place and time as shall be fixed by the Board of Directors at the meeting at which they were elected.

4.7. 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 Board of Directors. Notice of regular meetings, unless noticed previously, shall be given to each Board member personally, by electronic transmission or by mail, telephone or telecopier at least forty-eight (48) hours prior to the day named for such meeting.

4.8. SPECIAL MEETINGS. Special meetings of the Board of Directors may be called by the President and must be called by the Secretary at the written request of any two (2) Board members. Not less than forty-eight (48) hours' notice of the meeting (except in an emergency) shall be

given personally, by electronic transmission or by mail, telephone or telecopier, which notice shall state the time, place and purpose of the meeting.

4.9. WAIVER OF NOTICE. Any Board member 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 Board member at a meeting shall constitute waiver of notice of the meeting.

4.10. NOTICE TO OWNERS. Notices of Board of Directors' meetings, and meetings of committees to take final action on behalf of the Board of Directors or, to make recommendations regarding the Association budget, shall be posted conspicuously on the Condominium Property at least forty-eight (48) continuous hours preceding the meeting, 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. Written notice of any meeting at which non-emergency special assessments, or at which amendment to rules regarding unit use will be considered shall be mailed, delivered or electronically transmitted to the Unit Owners and posted conspicuously on the Condominium Property not less than fourteen (14) days prior to the meeting. Evidence of compliance with this fourteen (14) day notice shall be by an affidavit executed by the person providing the notice and filed among the official records of the Association. Upon prior notice to the Unit Owners, the Board of Directors shall by duly adopted rule designate a specific location on the Condominium Property, upon which all notices of Board of Directors' meetings shall be posted. The Board of Directors, upon notice to Unit Owners, shall, by duly adopted rule, designate a specific location on the Condominium Property or Association Property upon which all notices of Unit Owner meetings shall be posted. If there is no Condominium Property or Association Property upon which notices can be posted, notices of Board of Directors meetings shall be mailed, delivered or electronically transmitted to each Unit Owner at least fourteen (14) days before the meeting. In lieu of or in addition to the physical posting of notice of any meeting of the Unit Owners on the Condominium Property, the Association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the Association. However, if broadcast notice is used in lieu of a notice posted physically on the Condominium Property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required by this Section 3.10. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda.

4.11. OWNER PARTICIPATION. Meetings of the Board of Directors and committee meetings for which notice is required pursuant to Section 4.10 above, at which a quorum of the members of the Board of Directors or committee, as applicable, 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's statements. 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 the Division of Florida Land Sales, Condominiums and Mobile Homes.

4.12. BOARD MEETINGS, QUORUM AND VOTING. A quorum at Board of Directors' meetings shall consist of a majority of the Board of Directors. The acts approved by a majority of Board of Directors present at a meeting, at which a quorum is present, shall constitute the acts of the Board of Directors. The Board of Directors may not vote by proxy or by secret ballot at Board of Directors' meetings, except as may be provided by the Condominium Act from time to time, and a vote or abstention for each member present shall be recorded in the minutes. If at any meeting of the Board of

Directors there shall be less than a quorum of Board members present, the Board member(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 Board members may later submit in writing his/her agreement or disagreements with Board actions, but such statements may not be used for purposes of creating a quorum and may not be used as a vote for or against any action taken at the meeting.

4.13. PRESIDING OFFICER. The presiding officer at Board of 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 Board members present shall designate one of the Board members present to preside.

4.14. DIRECTOR COMPENSATION. Board members shall serve without pay, unless the Voting Interests annually authorize Board members' fees. Board members shall be entitled to reimbursement for expenses reasonably incurred.

5. POWERS AND DUTIES OF THE BOARD OF DIRECTORS. All of the powers and duties of the Association existing under the Florida Not-For-Profit Corporation Statute, the Condominium Act, the Declaration of Condominium, Articles of Incorporation 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 Board of Directors shall include, but shall not be limited to, the following:

5.1. TO ADOPT BUDGETS, BORROW MONEY AND MAKE AND COLLECT ASSESSMENTS AND FEES from and against Unit Owners and users to defray the expenses of the Association.

5.2. TO USE THE PROCEEDS OF ASSESSMENTS in the exercise of its powers and duties.

5.3. TO MAINTAIN, REPAIR, REPLACE AND OPERATE the Condominium Property.

5.4. TO ENACT RULES AND REGULATIONS concerning the use of the Common Elements and the Units subject to any limitations contained in the Condominium Act and the Declaration of Condominium.

5.5. TO RECONSTRUCT COMMON ELEMENT IMPROVEMENTS AFTER CASUALTY and to further improve the properties.

5.6. TO APPROVE OR DISAPPROVE PROPOSED ACTIONS in the manner provided by the Declaration of Condominium.

5.7. TO ENFORCE by legal means the provisions of applicable laws and the Condominium documents.

5.8. TO CONTRACT FOR MANAGEMENT of the Condominium.

5.9. TO CARRY INSURANCE for the protection of the Unit Owners, users, the Association and the Condominium Property.

5.10. TO PAY THE COST OF ALL UTILITY SERVICES rendered to the Condominium and not billed to Unit Owners or users.

5.11. TO EMPLOY AND DISMISS PERSONNEL and designate other officers for reasonable compensation and grant them such duties as seem appropriate for proper administration of the purposes of the Association.

5.12. TO BRING AND DEFEND SUITS, MAKE AND EXECUTE CONTRACTS, DEEDS, MORTGAGES, LEASES, LICENSES 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 Property necessary or desirable for proper operation of the Condominium.

5.13. TO COMPLY WITH REQUIREMENTS FOR ENTERING CONTRACTS FOR PRODUCTS AND SERVICES - All contracts for the purchase, lease or renting of materials or equipment or for services, or such other contracts which are not to be fully performed within one (1) year, shall be in writing. As to any such contract which requires payment exceeding five percent (5%) of the total annual budget of the Association including reserves except for contracts with employees of the Association, and for attorneys, accountants, community association managers, architects, engineers and landscape architects, the Association shall obtain 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 Flagler County, Florida. The Association need not accept the lowest bid. This Section shall be deemed to incorporate the provisions of the Condominium Act as it exists from time to time.

5.14. TO LEVY FINES - The Board of Directors may, pursuant to Section 718.303 of the Condominium Act, impose fines not to exceed \$100.00 per violation, for failure to comply with the provisions of the Declaration of Condominium, the Articles of Incorporation, these By-Laws or the reasonable rules and regulations of the Association, by owners, occupants, licensees, tenants and invitees. A fine may be imposed for each day of continuing violation with a single notice and opportunity for hearing, provided that no fine shall in the aggregate exceed \$1,000.00.

5.14.1. HEARING NOTICE. The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days. Said notice shall include:

- (a) A statement of the date, time and place of the hearing;
- (b) A statement of the provisions of the Declaration, Articles of Incorporation, By-Laws, or Rules and Regulations which have allegedly been violated; and
- (c) A short and plain statement of the matters asserted by the Association.

5.14.2. RESPONDENT'S RIGHTS. The party against whom the fine or sanction may be levied shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association.

5.14.3. HEARING COMMITTEE. The hearing must be held before a committee of other Unit Owners, none of whom are members or spouses of the Board of Directors. If the committee does not agree with the fine, the fine may not be levied.

5.15. TO APPOINT COMMITTEES. The Board of Directors may appoint committees, except that a committee for the purpose of nominating candidates for election to the Board of Directors is prohibited. The Board of Directors may, however, appoint a search committee to encourage qualified persons to become candidates for the Board of Directors. All committees and committee members shall serve at the pleasure of the Board of Directors.

5.16. TO MAINTAIN FIRE SAFETY COMPLIANCE. The Board of Directors may accept a certificate of compliance from a licensed electrical contractor or electrician as evidence of compliance of the Units with the applicable fire and life safety code.

4.1. TO ADOPT SPECIFICATIONS FOR LAMINATED GLASS OR WINDOW FILM. The Board of Directors shall adopt specifications for laminated glass or window film architecturally designed to function as hurricane protection which equal or exceed the specifications of the original glass installed in the building and which comply with the applicable building code. The Board shall not refuse to approve the installation or replacement of laminated glass or window film conforming to the specifications adopted by the Board. Condominium residence exterior glass windows and sliding glass doors are a special architect approved laminated glass and have been designed and installed to meet or exceed the wind load and wind-borne debris impact standards of the applicable building code for hurricane protection. For this reason and for the purpose of preserving the aesthetic appearance of the building, hurricane shutters shall not be installed on any windows or sliding glass doors in the condominium residences. If such windows and sliding glass doors in the condominium residences are replaced, they must be replaced with laminated architectural glass equal to or exceeding the specifications of the original glass and which comply with the applicable building code.

5.17. TO HAVE THE FOLLOWING EMERGENCY POWERS. The following shall apply to the extent not viewed to be in conflict with the Condominium Act:

5.17.1. In anticipation of or during any emergency defined in Section 4.18.5 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 emergency, to accommodate the incapacity or unavailability of any officer of the Association; and

(b) Relocate the principal office or designate alternative principal offices or authorize the officers to do so.

5.17.2. During any emergency defined in Section 4.18.6. below:

(a) Notice of a meeting of the Board of Directors need be given only to those Board members whom it is practicable to reach and may be given in any practicable manner, including by publication and radio; and

(b) The Board member or members in attendance at a meeting shall constitute a quorum.

5.17.3. Corporate action taken in good faith during an emergency under this Section to further the ordinary affairs of the Association:

- (a) Binds the Association; and
- (b) Shall have the presumption of being reasonable and necessary.

5.17.4. An officer, director, employee or agent of the Association acting in accordance with these emergency By-Laws provisions is only liable for willful misconduct.

5.17.5. The provisions of these emergency By-Laws shall supersede any inconsistent or contrary provisions of the By-Laws for the period of emergency.

5.17.6. An emergency exists for purposes of this Section if a quorum of the Association's Board of Directors cannot readily be assembled because of some catastrophic or unforeseen event.

5.18. **TO CONVEY TO CONDEMNING AUTHORITIES.** To convey a portion of the Common Elements to a condemning authority for the purpose of providing utility easements, right of way expansion, or other public purposes, whether negotiated or as the result of eminent domain proceedings.

6. OFFICERS

6.1. **OFFICERS OF THE ASSOCIATION.** The affairs of the Association shall be administered by the officers of the Association. The officers of the Association shall be the President, one (1) or more Vice Presidents, a Secretary, a Treasurer, and such assistant officers as may be desired. The officers shall be elected by the Board of Directors of the Association at its first meeting following the annual meeting of the Members and shall serve at the pleasure of the Board of Directors. Any officer may be peremptorily removed by a majority vote of the Board of Directors at any meeting. Any person may hold two (2) or more offices except that the President shall not also be the Secretary.

6.2. **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 and shall exercise such other powers and perform such other duties as shall be prescribed by the Board of Directors.

6.3. **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 Board of Directors.

6.4. **SECRETARY; POWERS AND DUTIES.** The Secretary shall keep the minutes of all meetings of the Board of Directors and the Members; shall attend to the giving and serving of all notices to the Board members, Unit Owners 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 Board of Directors or the President.

6.5. 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 and as may be prescribed by the Board of Directors.

6.6. EMPLOYEE COMPENSATION. The compensation of all employees of the Association shall be fixed by the Board of Directors. This provision shall not preclude the Board of Directors from employing a Board member as an employee of the Association.

6.7. INDEMNIFICATION. The Association shall indemnify its directors, officers and committee members and may indemnify its employees and agents, to the fullest extent permitted by law, against any and all expenses or liabilities incurred in defending civil, criminal or administrative proceedings resulting from the performance or attempted performance in good faith of their offices on behalf of the Association or its members. Such indemnification shall include advancement of expenses prior to the final disposition of any such proceedings and amounts paid in settlement of such proceedings, and such indemnification shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any document other than this Declaration of Condominium, by vote of the members or disinterested directors, or otherwise. This indemnification shall continue as to a person who has ceased to be a director, officer, committee member, employee or agent, and shall inure to the benefit of his or her heirs and personal representatives. Anything to the contrary herein notwithstanding, no amendment to the provisions of this Section 6.7 shall be applicable as to any party eligible for indemnification hereunder who has not given his or her prior written consent to such amendment.

6.8. DELEGATION. To the extent permitted by law, the powers and duties of the Board of Directors and officers may be delegated for the purpose of management.

7. 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 Section 718.111 of the Condominium Act, except those which may be exempted by the Condominium Act and/or the rules of the Division of Florida Land Sales, Condominiums and Mobile Homes from time to time, shall be available for inspection by Unit Owners and Board members within five (5) working days after receipt of a written request by the Board member, its designee or a Unit Owner. 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 Property or Association Property; provided, however, that the Board of Directors may adopt, in advance and in written form, reasonable rules regarding the frequency, time, location, notice and manner of record inspections and copying.

8. FISCAL MANAGEMENT. Fiscal management of the Association shall be in accordance with the following provisions:

8.1. BUDGET. A proposed annual budget of Common Expenses shall be prepared by the Board of Directors which shall include all anticipated expenses for operation, maintenance and administration of the Condominium, including insurance and management fees, if any, and for all of the unpaid operating expenses previously incurred. The proposed annual budget of Common Expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in Section 718.504(21) of the Condominium Act. It shall include reserve accounts pursuant to Section 718.112(2)(F)(2) of the Condominium Act that may later be waived or reduced by a majority vote at a duly called meeting of the Association. Reserve funds

and any accrued interest on the funds shall remain in the reserve account and shall be used only for authorized reserve expenditures, unless their use for other purposes is approved in advance by a vote of the majority of the applicable Voting Interests voting in person or by proxy at a duly called meeting of the Association. The budget 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.

8.2. NOTICE OF BUDGET MEETING. At least fourteen (14) days prior to the meeting of the Board of Directors at which the budget will be considered, the Board of Directors shall hand deliver to each Unit Owner, or mail to each Unit Owner at the address last furnished to the Association by the Unit Owner, or electronically transmit to the location furnished by the Unit Owner for that purpose, a notice of the meeting together with a copy of the proposed annual budget. An officer or manager of the Association, or other person providing notice of such meeting, shall execute an affidavit evidencing compliance with such notice requirement, and such affidavit shall be filed among the official records of the Association.

8.3. ASSESSMENTS. Assessments shall be made against Units not less frequently than quarterly in an amount which is not less than that required to provide funds in advance for payment of all the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. Assessments shall become due on the first day of each such period and which shall become delinquent if not received ten (10) days thereafter. The Association shall have the right to accelerate assessments of a Unit Owner that is 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 of Flagler County, Florida and shall include the amounts due for the remainder of the fiscal year for which the claim of lien was filed.

8.4. SPECIAL ASSESSMENTS AND CHARGES. Assessments and charges for expenses which are not provided for and funded in the operating budget shall be made by the Board of Directors, and the time of payment shall likewise be determined by them.

8.5. 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 Unit 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.

8.6. LIABILITY FOR ASSESSMENTS. A Unit Owner regardless of how his or her title has been acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, shall be liable for all Assessments 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 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 six (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 (1%) of the original mortgage debt. This limitation 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 thirty (30) days after transfer of title. Failure to pay the full amount of all assessments when due shall entitle the 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 Section shall be deemed amended so as to incorporate the provisions of Section 718.116 of the Condominium Act as amended from time to time.

8.7. 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 Section 718.116 of the Condominium Act.

8.8. UNPAID CHARGES. Unpaid charges which are due together with costs, interest and reasonable attorneys' fees including appeals for collection shall be the basis for an action at law by the Association against the Unit Owner.

8.9. COLLECTION; INTEREST; ADMINISTRATIVE LATE FEE; APPLICATION OF PAYMENTS. Assessments paid on or before ten (10) days after the date due shall not bear interest, but all sums not paid on or before ten (10) days shall bear interest at the highest lawful rate from time to time (now eighteen percent (18%) per annum) 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 five percent (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 attorneys' fees and then to the Assessment payment first due. All interest collected shall be credited to the common expense account.

8.10. 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. The Association must deliver or mail by certified mail to the Unit Owner a written notice of its intention to foreclose the assessment lien thirty (30) days before commencing foreclosure, unless a Notice of Contest of Lien has been filed. The lien created by Section 718.116(5)(a) of the Condominium Act shall secure only assessments, interest, costs and attorneys fees and not fines, charges or other fees.

8.11. 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.

8.12. ASSOCIATION DEPOSITORY. The depository of the Association shall be a bank or banks or state or federal savings and loan associations or a member firm of the New York Stock Exchange with offices in Florida and as shall be designated from time to time by the Board of Directors and in which the monies for the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Board of Directors.

8.13. COMMINGLING OF FUNDS PROHIBITED. All funds shall be maintained separately in the Association's name. Reserve and operating funds may not be commingled unless combined for investment purposes. This Section 8.13 is not meant to prohibit prudent investment of

Association funds even if combined with operating or other reserve funds of the Association, but such funds must be accounted for separately, and the combined account balance may not, at any time, 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 Florida Statutes Section 468.432 (200_), and no agent, employee, officer, or Board member of the Association shall commingle any Association funds with his or her funds or with the funds of any other condominium association or community association as defined in Florida Statutes Section 468.431 (200_).

8.14. ANNUAL FINANCIAL REPORT. Financial reports meeting the requirements of Section 718.111(13) of the Condominium Act shall be made annually within ninety (90) days after the end of the fiscal year of the Association. Within twenty-one (21) days after the annual financial report is completed by the Association or received from the third party, but not later than one hundred twenty (120) days after the end of the fiscal year, the Association shall mail or hand deliver to each Unit Owner a copy of the financial report or a notice that a copy of the financial report will be mailed or hand delivered to the Unit Owner, without charge, upon receipt of a written request from the Unit Owner.

8.15. FIDELITY BONDING. The Association shall obtain and maintain blanket fidelity bonding for each person who controls or disburses funds of the Association and the President, Secretary and Treasurer of the Association in an amount not less than \$50,000.00 for each person, but in no event less than the minimum required by the Condominium Act or FNMA/FMLMC from time to time based upon 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, which shall be a Common Expense.

9. PARLIAMENTARY RULES. A parliamentary procedure such as Robert's Rules of Order uniformly applied shall govern the conduct of corporate proceedings when not in conflict with the Declaration, the Articles of Incorporation or By-Laws of the Association or with the laws of the State of Florida.

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

10.1. NOTICE of the proposed amendment or text of the proposed amendment shall be included in the notice of any meeting at which or by which a proposed amendment is considered.

10.2. PROPOSAL OF AMENDMENTS - An amendment may be proposed by either a majority of the Board of Directors or by twenty-five percent (25%) of the Voting Interests.

10.3. ADOPTION OF AMENDMENTS - After turnover, a resolution or written agreement adopting a proposed amendment must receive approval of sixty-seven percent (67%) of the Voting Interests for the amendment to be adopted. Prior to turnover, amendments may be adopted by a majority of the Board of Directors alone, without vote of the Unit Owners.

10.4. EFFECTIVE DATE - An amendment when adopted shall become effective only after being recorded in the Public Records of Flagler County, Florida.

10.5. PROPOSED AMENDMENT FORMAT - Proposals 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, however, the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation may be inserted instead immediately preceding the proposed amendment saying, "SUBSTANTIAL REWORDING OF BY-LAW. SEE BY-LAW NUMBER FOR PRESENT TEXT."

11. **MANDATORY ARBITRATION OF DISPUTES.** Any unresolved disputes between the Board of Directors and Unit Owners, as defined in Section 718.1255(1) of the Condominium Act, must be arbitrated in mandatory non-binding arbitration proceedings as required by the Condominium Act prior to commencing litigation.

12. **ELECTRONIC TRANSMISSION.** For purposes hereof, "electronic transmission" means any form of communication, not directly involving the physical transmission or transfer of paper, which creates a record that may be retained, retrieved and reviewed by a recipient thereof and which may be directly reproduced in a comprehensible and legible paper form by such recipient through an automated process. Examples of electronic transmission include, but are not limited to, telegrams, facsimile transmissions of images, and text that is sent via electronic mail between computers. Notwithstanding the provision for electronic transmission of notices by the Association, same may only be sent to Unit Owners that consent to receipt of Association notices by electronic transmission (and only for so long as such consent remains in effect). Further, in no event may electronic transmission be used as a method of giving notice of a meeting called in whole or in part regarding the recall of a Director.