

## EXHIBIT 4

**BY-LAWS OF  
THE RESIDENCES AT SANDPEARL RESORT OWNER'S ASSOCIATION, INC.  
A Corporation Not-for-Profit Under the Laws  
of the State of Florida**

### ARTICLE I. IDENTIFICATION

1.1 Identity: These are the By-Laws of THE RESIDENCES AT SANDPEARL RESORT OWNER'S ASSOCIATION, INC., a corporation not-for-profit, organized and existing under the laws of the State of Florida, hereinafter called the "Association", the Articles of Incorporation of which were filed in the office of the Secretary of State on June 14, 2005.

1.2 Purpose: The Association has been organized for the purpose of administering THE RESIDENCES AT SANDPEARL RESORT, a Condominium (the "Condominium"), created by the recording of the Declaration of Condominium in the Public Records of Pinellas County, Florida (the "Declaration") to which these By-Laws are attached, in accordance with and pursuant to Chapter 718, Florida Statutes, hereinafter called the "Condominium Act". The Condominium contains residential Units, the record owners ("Owners" or "Unit Owners") of which shall be members of the Association. Unit Owners will become members upon receiving record title to a Unit.

1.3 Principal Office: The principal office of the Association shall be as provided in the Articles of Incorporation, or at such other place as may be subsequently designated by the Board of Directors. All books and records of the Association shall be kept at its principal office or at the office of its manager located within the State of Florida.

1.4 Fiscal Year: The fiscal year of the Association shall be from January 1 through December 31 of each year.

1.5 Seal: The seal of the corporation shall bear the name of the corporation, the word "Florida", the words "corporation not-for-profit" and the year of incorporation.

(SEAL)

1.6 Definitions: For convenience, these By-Laws shall be referred to as the "By-Laws" and the Articles of Incorporation of the Association as the "Articles". The other terms used in these Bylaws shall have the same definitions and meanings as those set forth in the Declaration, unless herein provided to the contrary or unless the context otherwise requires.

### ARTICLE II. MEMBERS

2.1 Qualification: The members of the Association shall consist of all of the record Owners of Condominium Units in THE RESIDENCES AT SANDPEARL RESORT, a Condominium.

2.2 Roster of Unit Owners: Each Unit Owner shall file with the Association a copy of the



deed or other document showing his or her ownership. The Association shall maintain such information and may rely upon the accuracy of the same for all purposes until notified in writing of changes therein as hereafter provided. Only Unit Owners of record on the date notice of any meeting requiring their vote is given shall be entitled to notice of and to vote at such meeting, unless prior to such meeting other Owners shall produce adequate evidence, as provided above, of their interest and shall waive in writing notice of such meeting.

2.3 Change of Membership: After receiving the approval of the Association as required in the Declaration; change of membership in the Association shall be established by recording in the Public Records of Pinellas County, Florida, a deed or other instrument establishing record title to a Unit in the name of a Unit Owner or Owners, and by delivering to the Association a copy of such recorded instrument. The Owner designated by such instrument shall thereupon become a member of the Association and the membership of the prior Owner is thereby terminated.

2.4 Designation of Voting Representative: If a Unit is owned by one person, his or her right to vote shall be established by the roster of members. If a Unit is owned by more than one person, those persons (including husbands and wives) shall decide among themselves as to who shall cast the vote of the Unit. In the event that those persons cannot so decide, no vote shall be cast. A person casting a vote for a Unit shall be presumed to have the authority to do so unless the President or the Board of Directors is otherwise notified. If a Unit is owned by a corporation, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by an appropriate officer of the corporation and filed with the Secretary of the Association. Such person need not be a Unit Owner. 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. If a certificate designating the person entitled to cast the vote for a Unit for which such certificate is required is not on file or has been revoked, the vote attributable to such Unit shall not be considered in determining whether a quorum is present, nor for any other purpose, and the total number of authorized votes in the Association shall be reduced accordingly until such certificate is filed.

2.5 Approval or Disapproval of Matters: Whenever the decision of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such Owner if at an Association meeting, unless the joinder of record Owners is specifically required by the Declaration or these By-Laws.

2.6 Restraint Upon Assignment of Shares and Assets: The share of a member in the funds and the assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his or her Unit.

### **ARTICLE III. MEETINGS OF MEMBERS**

3.1 Annual Meeting: The annual members' meeting shall be held on the date, at the place and at the time determined by the Board of Directors from time to time, provided that there shall be an annual meeting every calendar year and, to the extent possible, no later than twelve (12) months after the last preceding annual meeting. The purpose of the meeting shall be, except as provided herein to the contrary, to elect Directors and to transact any other business authorized to be transacted by the members, or as stated in the notice of the meeting sent to Unit Owners in advance thereof. Unless changed by the Board of Directors, the first annual meeting shall be held in the month of January following the year in which the Declaration is filed.



3.2 Special Meetings: Special members' meetings shall be held at such places as provided herein for annual meetings, and may be called by the President or by a majority of the Board of Directors of the Association, and must be called by the President or Secretary upon receipt of a written request from a majority of the members of the Association. The business conducted at a special meeting shall be limited to that stated in the notice of the meeting. Special meetings may also be called by Unit Owners in the manner provided for in the Act.

3.3 Notice of Members Meetings: Notice of a meeting of members, stating the time and place and the purpose(s) for which the meeting is called, and including an agenda, shall be given by the President or Secretary. A copy of the notice shall be posted at a conspicuous place on the Condominium Property. The notice of the annual meeting shall be sent by mail, hand delivered or electronically transmitted to each Unit Owner in the manner provided in the Declaration, unless the Unit Owner waives in writing the right to receive notice of the annual meeting. The delivery or mailing shall be to the address of the member as it appears on the roster of members. The posting and mailing of the notice shall be effected not less than fourteen (14) days, nor more than thirty- four (34) days, prior to the date of the meeting. The posting shall be for at least fourteen (14) continuous days. Proof of posting and mailing of the notice shall be given by affidavit of the person providing the notice or by a United States postal service certificate of mailing.

Notice of specific meetings may be waived before or after the meeting and the attendance of any member (or person authorized to vote for such member) shall constitute such member's waiver of notice of such meeting, except when his or her (or his or her authorized representative's) attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

Notice of meetings of the Board, Unit Owner meetings, except Unit Owner meetings to recall board members under Section 718.122(2)(j), Florida Statutes, and committee meetings, may be given by electronic transmission to Unit Owners who consent to receive notice by electronic transmission.

An officer of the Association shall provide an affidavit, to be included in the official records of the Association, affirming that notices of the Association meeting were mailed or hand delivered in accordance with this Section and section 718.112(2)(d) of the Act, to each Unit Owner at the address last furnished to the Association. No other proof of notice of a meeting shall be required.

3.4 Quorum: A quorum at a members' meeting shall consist of the persons entitled to cast a majority of the votes of the entire membership of the Association, either present in person or by proxy. The acts approved by a majority of the voting interests represented at a meeting at which a quorum is present shall constitute the acts of the members, except when approval by a greater number of members is required by the Declaration, the Articles of Incorporation, or these By-Laws. Such votes may be by proxy, as hereinafter provided.

3.5 Voting:

- (a) Number of Votes. In any meeting of members, the Owners of Units shall be entitled to cast one vote for each Unit owned. The vote of any Unit shall not be divisible.
- (b) Majority Vote. The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum shall have been attained shall be binding upon all Unit Owners for all purposes, except



where otherwise provided by law, the Declaration, the Articles or these By-Laws. As used in these By-Laws, the Articles or the Declaration, the terms "majority of the Unit Owners" and "majority of the members" shall mean a majority of the votes entitled to be cast by the members and not a majority of the members themselves; that is, more than 50% of the then total authorized votes present in person or by proxy and voting at any meeting of the Unit Owners at which a quorum shall have been attained. Similarly, unless specifically stated to the contrary, if some greater percentage of members is required herein or in the Declaration or Articles, it shall mean such greater percentage of the votes of members and not of the members themselves.

3.6 Proxies: Votes to be cast at meetings of the Association membership may be cast in person or by proxy. Except as provided herein, Unit Owners may not vote by general proxy, but may vote by limited proxies substantially conforming to the limited proxy form approved by the Division of Florida Land Sales, Condominiums and Mobile Homes, Bureau of Condominiums. Limited proxies shall be permitted for votes taken to: waive or reduce reserves; for votes taken to waive the financial reporting requirements of Sections 718.111(13) Florida Statutes; for votes taken to amend the Declaration, Articles or By-Laws; or for any other matter requiring or permitting a vote of Unit Owners. General proxies may be used for other matters for which limited proxies are not required and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. A proxy may be made by any person entitled to vote, but shall only be valid for the specific meeting for which originally given and any lawful adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the person executing it. A proxy must be in writing, signed by the person authorized to cast the vote for the Unit (as above described), name the person(s) voting by proxy and the person authorized to vote for such person(s) and filed with the Secretary before the appointed time of the meeting, or before the time to which the meeting is adjourned. Each proxy shall contain the date, time and place of the meeting for which it is given and, if a limited proxy, shall set forth the matters on which the proxy holder may vote and the manner in which the vote is to be cast. There shall be no limitation on the number of proxies which may be held by any person (including a designee of the Developer). If a proxy expressly provides, any proxy holder may appoint, in writing, a substitute to act in its place. If such provision is not made, substitution is not permitted. Holders of proxies need not be Unit Owners.

3.7 Adjournments: If any proposed meeting cannot be organized because a quorum has not been attained, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, provided notice of the newly scheduled meeting is given in the manner required for the giving of notice of a meeting. Any proxy given shall be effective only for the specific meeting for which originally given and any lawful adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy is revocable at any time at the pleasure of the unit owner executing it.

3.8 Order of Business: If a quorum has been attained, the order of business at annual members' meetings and, as far practical, at all other members' meetings shall be:



- (a) Ballots not yet cast shall be collected;
- (b) Call to Order by President;
- (c) Appointment by the President of a chairman of the meeting (who need not be a member, officer or a director);
- (d) Calling of the roll and certifying of the proxies;
- (e) Proof of notice of the meeting or waiver of notice;
- (f) Reading and disposal of any unapproved minutes;
- (g) Reports of officers;
- (h) Reports of committees;
- (i) Appointment of inspectors of election;
- (j) Determination of number of Directors to be elected;
- (k) Election of directors;
- (l) Unfinished business;
- (m) New business; and
- (n) Adjournment.

Such order may be waived in whole or in part by direction of the chairman.

3.9 Right To Participate: Subject to the following and such further reasonable restrictions as may be adopted from time to time by the Board, Unit Owners shall have the right to speak at the annual and special meetings of the Unit Owners, committee meetings and Board meetings with reference to all designated agenda items. A Unit Owner does not have the right to speak with respect to items not specifically designated on the agenda, provided, however, that the Board may permit an Owner to speak on such items in its discretion. Unless waived by the chairman of the meeting (which may be done in the chairman's sole and absolute discretion and without being deemed to constitute a waiver as to any other subsequent speakers), all Unit Owners speaking at a meeting shall be limited to a maximum of three (3) minutes per speaker. Any Unit Owner may tape record or videotape a meeting, subject to the following and such further reasonable restrictions as may be adopted from time to time by the Board:

- (a) The only audio and video equipment and devices which Unit Owners are authorized to utilize at any such meeting is equipment which does not produce distracting sound or light emissions;
- (b) Audio and video equipment shall be assembled and placed in position in advance of the commencement of the meeting;
- (c) Anyone videotaping or recording a meeting shall not be permitted to move about the meeting room in order to facilitate the recording; and
- (d) At least 24 hours prior notice shall be given to the secretary of the Association by any Unit Owner desiring to make an audio or video tape of the meeting.

3.10 Minutes of Meeting: The minutes of all meetings of Unit Owners shall be kept in a book available for inspection by Unit Owners or their authorized representatives and Board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven years.



#### **ARTICLE IV. DIRECTORS**

4.1 Board of Directors: The affairs of the Association shall be governed by a Board of not less than three (3) nor more than five (5) directors, the exact number to be determined in the first instance in the Articles, and, thereafter, except as provided herein, from time to time upon majority vote of the membership. Directors, other than designees of Developer, must be Unit Owners. Directors may not vote at Board meetings by proxy.

4.2 Election of Directors: The election of Directors shall be conducted in the following manner:

(a) Election of Directors shall be held at the annual meeting of the members, or as needed to fill a vacancy. The Board may create or appoint a search committee which shall not have the authority to nominate any candidate.

(b) Not less than sixty (60) days before the annual meeting of the members, the Association shall mail or deliver to each Unit Owner entitled to vote, a first notice of the date of the election.

(c) Any Unit Owner or other eligible person desiring to be a candidate for the Board of Directors must give written notice to the Secretary of the Association not less than 40 days before a scheduled election. Written notice shall be effective when received by the Secretary or other person designated by the Secretary. A candidate information sheet if desired by the candidate, may be provided to the Association not less than 35 days before the election. For purposes of this rule, written notice to the Secretary or other person designated by the Secretary shall be deemed adequate written notice on the Secretary. Written notice shall be accomplished in accordance with one or more of the following methods:

(i) By certified mail, return receipt requested, directed to the Secretary or other person designated by the Secretary; or

(ii) By personal delivery to the Secretary or other person designated by the Secretary; or

(iii) By regular U.S. mail, facsimile, telegram, or other method of delivery to the Secretary or other person designated by the Secretary.

(d) Upon receipt by the Secretary or other person designated by the Secretary of any written notice by personal delivery that a Unit Owner or other eligible person desires to be a candidate for the Board of Directors, the Secretary or other person designated by the Secretary shall issue a written receipt acknowledging delivery of the written notice.

(e) Upon request of a candidate, the Association shall, with the second notice of election, mail or personally deliver to all eligible voters at the address indicated in the official records a copy of an information sheet which may describe the candidate's background, education, and qualifications as well as other factors deemed relevant by the candidate. The costs of mailing or delivery and copying shall be borne by the Association. The information contained therein shall not exceed one side of the sheet which shall be no larger than 8-1/2 inches by 11 inches. The failure of the Association to mail or personally deliver a copy of the timely delivered information sheet of each eligible candidate to the eligible voters shall render any election held null and void. The Association shall not edit, alter, or otherwise modify the content of the



information sheet. The Association shall have no liability for the information sheets prepared by the candidates. In order to reduce costs, the Association may print or duplicate the information sheets on both sides of the paper.

(f) Together with the written notice and agenda for the member's meeting as provided in Section 3.3 above, the Association shall mail or deliver to the eligible voters at the address listed in the official records a second notice of the election, together with a ballot and any information sheets timely submitted by the candidates. The Association shall mail or deliver the second notice no less than 14 days and no more than 34 days prior to the election. The second notice and accompanying documents shall not contain any communication by the Board of Directors that endorse, disapprove or otherwise comment on any candidate. Accompanying the ballot shall be an outer envelope addressed to the person or entity authorized to receive the ballots and a smaller inner envelope in which the ballot shall be placed. The exterior of the outer envelope shall indicate the name of the voter, and the Unit or Unit number being voted, and shall contain a signature space for the voter. Once the ballot is filled out, the voter shall place the completed ballot in the inner smaller envelope and seal the envelope. The inner envelope shall be placed within the outer larger envelope, and the outer envelope shall then be sealed. Each inner envelope shall contain only one ballot, but if a person is entitled to cast more than one ballot, the separate inner envelopes required shall be used for each ballot. The voter shall sign the exterior of the outer envelope in the space provided for such signature. The envelope shall either be mailed or hand delivered to the Association.

(g) The written ballot shall indicate in alphabetical order by surname, each and every Unit Owner or other eligible person who desires to be a candidate for the Board of Directors and who gave written notice to the Association not less than 40 days before a scheduled election, unless such person has, prior to the mailing of the ballot, withdrawn his candidacy in writing. The failure of the written ballot to indicate the name of each eligible candidate who gave written notice in the manner prescribed shall render any election so held null and void. No ballot shall indicate which candidate or candidates are incumbents on the Board. No ballot shall contain a section providing for the signature of a voter. All ballot forms utilized by the Association, whether those mailed to voters or those cast at a meeting, shall be uniform in color and appearance.

(h) Envelopes containing ballots received by the Association shall be retained and collected by the Association and shall not be opened except in the manner and at the time provided herein:

(i) Any envelopes containing ballots shall be collected by the Association and shall be transported to the location of the duly called meeting of the Unit Owners. The Association at the meeting shall have available additional blank ballots for distribution to the eligible voters who have not cast their votes. Each ballot distributed at the meeting shall be placed in an inner and outer envelope as provided in subsection (g) above. Each envelope and ballot shall be handled in the following manner, either by the Board or by a person or persons appointed by the Board. At the meeting, as the first order of business, ballots not yet cast shall be collected. Next, the signature and Unit identification on the outer envelope shall be checked against a list of qualified voters, unless previously verified as provided in paragraph (ii) below. Any exterior envelope not signed by the eligible voter shall be marked "Disregarded", and any ballots contained therein shall not be counted. The voters shall be checked off on the list as having voted. At least twenty percent (20%) of the eligible voters must cast a ballot in order for there to be a valid election of members of the Board of Directors. Provided said number of ballots has been cast, then, in the presence of any Unit Owners in attendance, all inner envelopes shall be first removed from the outer envelopes and shall be placed into a receptacle. Upon the commencement of the opening of the outer envelopes the polls shall be closed, and no more ballots shall be accepted. The inner envelopes shall then



be opened and the ballots shall be removed and counted in the presence of the Unit Owners. Any inner envelope containing more than one ballot shall be marked "Disregard", and any ballots contained therein shall not be counted. All envelopes and ballots, whether disregarded or not shall be retained with the official records of the Association.

(ii) If the Association desires to verify outer envelope information in advance of the meeting it may do so as provided herein. An impartial committee designated by the Board may, at a duly noticed meeting, which shall be open to all Unit Owners and which shall be held on the date of the election, proceed as follows. For purposes of this rule, "impartial" shall mean a committee whose members do not include any of the following or their spouses: (1) current board members; (2) officers; and (3) candidates for the Board. At the committee meeting, the signature and unit identification on the outer envelope shall be checked against the list of qualified voters. The voters shall be checked off on the list as having voted. Any exterior envelope not signed by the eligible voter shall be marked "Disregarded", and any ballots contained therein shall not be counted.

(i) Any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write, may request the assistance of a member of the Board of Directors or other Unit Owner to assist in casting his vote. If the election is by voting machine, any such voter before retiring to the voting booth, may have a member of the Board of Directors or other Unit Owner or representative, without suggestion or interference, identify the specific vacancy or vacancies and the candidates for each. If a voter requests the aid of any such individual, the two shall retire to the voting booth for the purpose of casting the vote according to the voter's choice.

(j) At a minimum, all voting machines shall meet the following requirements:

(i) Shall secure to the voter secrecy in the act of voting;

(ii) Shall permit the voter to vote for as many persons and offices as he is lawfully entitled to vote for, but no more;

(iii) Shall correctly register or record, and accurately count all votes cast for any and all persons;

(iv) Shall be furnished with an electric light or proper substitute, which will give sufficient light to enable voters to read ballots; and

(v) Shall be provided with a screen, hood, or curtain which shall be made and adjusted so as to conceal the voter and his or her actions while voting.

(k) There shall be no cumulative voting and no voting by proxy. When both the Developer and Unit Owners other than the Developer are entitled to representation on the Board, vacancies shall be filled in accordance with Rule 61B-23.0026, Florida Administrative Code. Vacancies in the Board of Directors occurring between annual meetings of the members shall be filled by the affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedure must conform to the requirements of Article 4.2 of these Bylaws.

(l) (i) Any member of the Board of Directors may be recalled and removed from office with or without cause by the vote or agreement in writing of a majority of all of the voting





interests. A special meeting of the Unit Owners to recall a member or members of the Board of Directors may be called by ten percent (10%) of the voting interests giving notice of the meeting as herein required for a meeting of Unit Owners, which notice shall state the purpose of the meeting. Electronic transmission may not be used as a method of giving notice of a meeting called in whole or in part for this purpose. If the recall is approved by a majority of all voting interests by a vote at a meeting, the recall will be effective as provided herein. The Board of Directors shall duly notice and hold a meeting within five (5) full business days of the adjournment of the Unit Owner meeting to recall one or more Board members. At the meeting the Board shall either certify the recall, in which case such member or members shall be recalled effective immediately and shall turn over to the Board within five (5) full business days any and all records and property of the Association in their possession or shall proceed as set forth below if the Board elects not to certify the recall. If the proposed recall is by an agreement in writing by a majority of all voting interests, the agreement in writing shall be served on the Association by certified mail or by personal service in the manner authorized by Chapter 48, Florida Statutes and the Florida Rules of Civil Procedure and the Board of Directors shall call a meeting of the Board within five (5) full business days after receipt of the agreement in writing and at the meeting shall certify the written agreement to recall a member or members of the Board of Directors, in which case such member or members shall be recalled effective immediately and shall turn over to the Board within five (5) full business days any and all records of the Association in his or her possession. Notwithstanding the foregoing, if the Board determines not to certify the written agreement to recall a member or members of the Board, or does not certify the recall by a vote at a meeting, the Board of Directors shall, within five (5) full business days after the meeting, file with the Division of Florida Land Sales, Condominiums and Mobile Homes, a petition pursuant to the procedures of Section 718.1255, Florida Statutes. The Unit Owners who voted at the meeting or who executed the agreement in writing shall constitute one party under the petition for arbitration. If the arbitrator certifies the recall as to any member or members of the Board, the recall will be effective upon mailing of the final order of arbitration to the Association. Any member or members so recalled shall deliver to the Board of Directors any and all records of the Association in his or her possession within five (5) full business days of the effective date of the recall.

(ii) If the Board of Directors fails to duly notice and hold a board meeting within five (5) full business days of service of an agreement in writing or within five (5) full business days of the Unit Owner recall meeting, the recall shall be deemed effective and the board members so recalled shall immediately turn over to the Board of Directors any and all records and property of the Association.

(iii) If a vacancy occurs on the Board of Directors as a result of the recall and less than a majority of the Board members are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining Directors, notwithstanding any provision to the contrary contained in these Bylaws. If vacancies occur on the Board of Directors as a result of a recall and a majority or more of the members are removed, the vacancy shall be filled in accordance with procedural rules adopted by the Division of Florida Land Sales, Condominiums and Mobile Homes.

(m) Notwithstanding the foregoing to the contrary, an election and balloting are not required (i) unless more candidates file notices of intent to run or are nominated than vacancies exist on the Board or (ii) if there is only one candidate for election to fill the vacancy.

4.3 Term: Except as provided herein to the contrary, the term of each Director's service shall extend to the next annual meeting of the members and thereafter until his or her successors are duly elected and qualified or until he or she is removed in the manner elsewhere provided. After such time as the Unit Owners, other than the Developer, have elected a majority of the Board of Directors, the Board may elect, by resolution of a majority of the Directors, to provide for increased and/or staggered terms of service.



Such resolution shall set forth the method by which the terms may be staggered and the procedures for electing directors to the terms thus established.

4.4 Organizational Meeting: The organizational meeting of newly elected or appointed Directors shall be held within ten (10) days of their election, at such place and time as shall be fixed by the Directors at the meeting at which they were elected, and will generally be held immediately following the meeting at which they were elected. If not held at that time, the meeting will be rescheduled with notice of the meeting posted conspicuously 48 continuous hours preceding the meeting.

4.5 Regular Meeting: Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of the regular meeting shall be given to each Director, personally or by mail, telephone or telegraph and shall be posted conspicuously at least forty eight (48) continuous hours prior to the day named for such meeting.

4.6 Special Meetings: Special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of one-third of the Directors. Notice of the special meeting shall be posted conspicuously not less than forty-eight (48) continuous hours prior to the meeting and shall be given to each Director personally or by mail, telephone or telegraph which notice shall state the time and place and purpose of the meeting.

4.7 Waiver of Notice: Any Director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

4.8 Quorum: A quorum at Director's meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the act of the Board of Directors; except where approval by a greater number of Directors is required by the Act, the Declaration, or these By-Laws.

4.9 Voting: Each Director shall have one (1) vote on all matters coming before the Board. Directors may not vote by proxy or by secret ballot except that officers may be elected by secret ballot. A vote or abstention for each member present shall be recorded in the minutes.

4.10 Adjournment of Meeting: If, at any meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business which might have been transacted at the meeting as originally called for may be transacted only after the rescheduled meeting has been noticed in accordance with Articles 4.5 and 4.6 above.

4.11 Joinder in Meeting by Approval of Minutes: The joinder of a Director in the action taken at a meeting, by signing and concurring in the minutes thereof, shall constitute the presence of such Director for the purpose of approving such minutes but not for the purposes of creating a quorum, nor may it be used as vote for or against the action taken.

4.12 Directors' Meeting: Meetings of the Board of Directors shall be open to all Unit Owners, and notices of such meeting which shall incorporate an identification of agenda items shall be posted conspicuously on the Condominium Property at least forty-eight continuous (48) hours in advance of such meeting, except in an emergency. Any item not included in the notice may be taken up on an emergency basis by at least a majority plus one of the members of the Board. Such emergency action shall be noticed and ratified at the next regular meeting of the Board. Written notice of any meeting at which non



emergency special assessments, or at which amendments to rules regarding Unit use will be considered, shall be mailed, hand 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 the fourteen (14) day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the Association. If there is no Condominium Property upon which notice can be posted, notices of Board meetings shall be mailed, hand delivered, or electronically transmitted to each Unit Owner at least fourteen (14) days prior to the meeting.

4.13 Presiding Officer: The presiding officer of the Directors' meeting shall be the President. In the absence of the President, the Directors shall designate one of their number to preside.

4.14 Order of Business: The order of business of Directors' meetings shall be:

- (a) Roll Call
- (b) Proof of due notice of meeting
- (c) Reading and disposal of any unapproved minutes
- (d) Reports of officers and committees
- (e) Election of officers, if any
- (f) Unfinished business
- (g) New business
- (h) Adjournment

Such order may be waived in whole or in part by direction of the presiding officer.

4.15 Members Right to Attend: Any meeting of the Board of Directors or its Committee (hereafter defined) at which a quorum is present is open to all Unit Owners. Any Unit Owner may tape record or video tape the meeting subject to rules if any, adopted by the Division of Florida Land Sales, Condominiums and Mobile Homes. The Unit Owner's right to speak at the meeting shall be subject to reasonable rules adopted by the Board of Directors in respect to the frequency, duration and manner of Unit Owner statements.

4.16 Minutes of Meetings: The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by Unit Owners, or their authorized representatives, and Board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven years.

4.17 Committees: The Board may by resolution create Committees and appoint persons to such Committees and vest in such Committees such powers and responsibilities as the Board shall deem advisable. As used herein, the term "Committee" shall, for purposes of notices of meetings and the rights of Unit Owners with respect to meetings, pertain to those committees meeting the definition thereof set forth in the Act; provided, however, that this shall not prevent the Board of Directors from forming other Committees.

4.18 Proviso: Notwithstanding anything to the contrary contained in this Section 4 or otherwise, the Board shall consist of three (3) Directors during the period that Developer is entitled to appoint a majority of the Directors, as hereinafter provided. Developer shall have the right to appoint all of the members of the Board of Directors until Unit Owners other than Developer own fifteen (15%) percent or more of the Units that will be operated ultimately by the Association. When Unit Owners other than Developer own fifteen percent (15%) or more of the Units that will be operated ultimately by the Association, the Unit Owners other than Developer shall be entitled to elect not less than one-third (1/3) of the members of the Board of



Directors. Upon the election of such Director(s), Developer shall forward to the Division of Florida Land Sales, Condominiums and Mobile Homes, the name and mailing address of the Director(s) elected. Unit Owners other than Developer are entitled to elect not less than a majority of the members of the Board of Directors (a) three years after fifty (50%) percent of the Units that will be operated ultimately by the Association have been conveyed to purchasers; (b) three months after ninety (90%) percent of the Units that will be operated ultimately by the Association have been conveyed to purchasers; (c) when all of 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; or (e) seven (7) years after the date the Declaration is recorded, whichever occurs first. Developer is entitled (but not obligated) to elect at least one (1) member of the Board of Directors as long as Developer holds for sale in the ordinary course of business five percent (5%) of the Units that will be operated ultimately by the Association.

(a) Transfer of Control: Developer may transfer control of the Association to Unit Owners other than Developer prior to the date set forth in the proviso above, in its sole discretion by causing all of its appointed Directors to resign without replacing them, whereupon it shall be the affirmative obligation of Unit Owners other than Developer to elect Directors and assume control of the Association. Developer shall give notice to all Unit Owners other than the Developer of accelerated resignations no less than sixty (60) days prior to the effective date of such resignations.

Within seventy-five (75) days after the Unit Owners other than Developer are entitled to elect a member or members of the Board of Directors, or sooner if Developer has elected to accelerate such event as aforesaid, the Association shall call, and give not less than sixty (60) days' notice of a meeting of the Unit Owners to elect such member or members of the Board of Directors. The meeting may be called and the notice given by any Unit Owner if the Association fails to do so.

(b) Relinquishment of Control: At the time the Unit Owners other than Developer elect a majority of the members of the Board of Directors of the Association, Developer shall relinquish control of the Association and such Unit Owners shall accept such control. At that time (except as to subparagraph (vii), which may be up to ninety (90) days thereafter) Developer shall deliver to the Association, at Developer's expense, all property of the Unit Owners and of the Association held or controlled by Developer, including, but not limited to, the following items, if applicable:

- (i) The original or a photocopy of the recorded Declaration of Condominium, and all amendments thereto. If a photocopy is provided, Developer must certify by affidavit that it is a complete copy of the actual recorded Declaration.
- (ii) A certified copy of the Articles of Incorporation of the Association.
- (iii) A copy of the By-Laws of the Association.
- (iv) The minute books, including all minutes, and other books and records of the Association.
- (v) Any rules and regulations which have been adopted.
- (vi) Resignations of resigning officers and Board members who were appointed by Developer.



(vii) The financial records, including financial statements of the Association, and source documents since the incorporation of the Association through the date of the turnover. The records shall be audited by an independent certified public accountant for the period from the incorporation of the Association or from the period covered by the last audit, if an audit has been performed for each fiscal year since incorporation. All financial statements shall be prepared in accordance with generally accepted accounting principles and shall be audited in accordance with generally accepted auditing standards, as prescribed by the Florida Board of Accountancy. The accountant performing the audit shall examine to the extent necessary supporting documents and records, including the cash disbursements and related paid invoices to determine if expenditures were for Association purposes, and billings, cash receipts and related records to determine that Developer was charged and paid the proper amounts of assessments.

(viii) Association funds or the control thereof.

(ix) All tangible personal property that is the property of the Association or is or was represented by Developer to be part of the Common Elements or is ostensibly part of the Common Elements, and an inventory of such property.

(x) A copy of the plans and specifications utilized in the construction or remodeling of Improvements and the supplying of equipment, and for the construction and installation of all mechanical components servicing the Improvements and the Condominium Property, with a Certificate, in affidavit form, of an officer of the Developer or an architect or engineer authorized to practice in Florida, that such plans and specifications represent, to the best of their knowledge and belief, the actual plans and specifications utilized in the construction and improvement of the Condominium Property and the construction and installation of the mechanical components serving the Improvements and the Condominium Property.

(xi) Insurance policies.

(xii) Copies of any certificates of occupancy which may have been issued for the Condominium Property.

(xiii) Any other permits issued by governmental bodies applicable to the Condominium Property in force or issued within one (1) year prior to the date the Unit Owners take control of the Association.

(xiv) A list of the names and addresses, of which Developer had knowledge at any time in the development of the Condominium, of all contractors, subcontractors and suppliers utilized in the construction or remodeling of the Improvements and the landscaping of the Common Elements.

(xv) All written warranties of contractors, subcontractors, suppliers and manufacturers, if any, that are still effective.

(xvi) A roster of Unit Owners and their addresses and telephone numbers, if known, as shown on Developer's records.

(xvii) Leases of the Common Elements and other leases to which the Association is a party, if applicable.

(xviii) Employment contracts or service contracts in which the Association is one of the



contracting parties, or service contracts in which the Association or Unit Owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service.

- (xix) All other contracts to which the Association is a party.

#### **ARTICLE V. POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

5.1 **Powers and Duties:** All the powers and duties of the Association existing under the Act, Declaration, and these By-Laws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to the approval of the Unit Owners, when such is specifically required. Such powers and duties of the Board of Directors shall include, without limitation, (except as limited elsewhere herein), the following:

- (a) Operating and maintaining the Common Elements.
- (b) Determining the expenses required for the operation of the Condominium and the Association.
- (c) Employing and dismissing the personnel necessary for the maintenance and operation of the Common Elements.
- (d) Adopting and amending rules and regulations concerning the details of the operation and use of the Condominium Property, subject to a right of the Unit Owners to overrule the Board as provided in Section 9.2 hereof.
- (e) Maintaining bank accounts on behalf of the Association and designating the signatories required therefor.
- (f) Purchasing, leasing or otherwise acquiring Units or other property in the name of the Association in accordance with the Declaration.
- (g) Purchasing Units at foreclosure or other judicial sales, in the name of the Association, or its designee.
- (h) Selling, leasing, mortgaging or otherwise dealing with Units acquired, and subleasing Units leased, by the Association, or its designee.
- (i) Organizing corporations and appointing persons to act as designees of the Association in acquiring title to or leasing Units or other property.
- (j) Obtaining and reviewing insurance for the Condominium Property.
- (k) Making repairs, additions and improvements to, or alterations of, the Condominium Property, and repairs to and restoration of the Condominium Property, in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings or otherwise.



(l) Enforcing obligations of the Unit Owners, allocating profits and expenses and taking such other actions as shall be deemed necessary and proper for the sound management of the Condominium.

(m) Levying fines against appropriate Unit owners for violations of the rules and regulations established by the Association to govern the conduct of such Unit Owners. No fine shall exceed \$100.00 (or such greater amount as may be permitted by law from time to time) nor shall any fine be levied except after giving reasonable notice and opportunity for a hearing before a committee of other Unit Owners to the affected Unit Owner and, if applicable, his tenant, licensee or invitee. No fine shall become a lien upon a Unit. If the committee does not agree with the fine, the fine may not be levied.

(n) Purchasing or leasing Units for use by resident superintendents and other similar persons.

(o) Borrowing money on behalf of the Condominium when required in connection with the operation, care, upkeep and maintenance of the Common Elements or the acquisition of property, and granting mortgages on and/or security interests in Association owned property; provided, however, that the affirmative vote of the Owners of at least two-thirds (2/3rds) of all Units shall be required for the borrowing of any sum which would cause the total outstanding indebtedness of the Association to exceed \$10,000.00. If any sum borrowed by the Board of Directors on behalf of the Condominium pursuant to the authority contained in this subparagraph (o) is not repaid by the Association, a Unit Owner who pays to the creditor such portion thereof as his interest in his Common Elements bears to the interest of all the Unit Owners in the Common Elements shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor shall have filed or shall have the right to file against, or which will affect, such Unit Owner's Unit; provided always, however, the Association shall take no action authorized in this paragraph without the prior written consent of Developer as long as Developer owns any Unit.

(p) Contracting for the management and maintenance of the Condominium Property and authorizing a management agent (who may be an affiliate of Developer) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair, and replacement of the Common Elements with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted by the Condominium documents and the Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.

(q) At its discretion, authorizing Unit Owners or other persons to use portions of the Common Elements for private parties and gatherings (and imposing reasonable charges for such private use, but only if pursuant to a lease of the applicable facility).

(r) Exercising (i) all powers specifically set forth in the Declaration, the Articles, these By-Laws and in the Act, (ii) all powers incidental thereto, and (iii) all other powers of a Florida corporation not for profit.

(s) Imposing a lawful fee in connection with the approval of the lease or sublease of Units or an assignment of a lease or sublease not to exceed the maximum amount permitted by law in any one case.

(t) Contracting with and creating or joining in the creation of special taxing districts,



joint councils and the like.

(u) The Board of Directors shall have a limited power 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 a result of eminent domain proceedings.

(v) A certificate of compliance from a licensed electrical contractor or electrician may be accepted by the Board of Directors as evidence of compliance of the Condominium Units to the applicable fire and life safety codes.

5.2 Enforcement: The Board of Directors shall enforce by legal means, provisions of the Declaration, the By-Laws and Rules and Regulations for the use of the Condominium Property. In the event that the Board of Directors determines that any Unit Owner is in violation of any of the provisions of, the Declaration, the By-Laws, , or Rules and Regulations, the Board, or any agent of the Board designated for that purpose, shall notify the Unit Owner of the nature of the violation. If said violation is not cured within five (5) days or if said violation consists of acts or conduct by the Unit Owner, and such other acts or conduct are repeated, the Board may levy a fine of a sum not exceeding \$100 per offense against the Unit Owner. Each day during which the violation continues shall be deemed a separate offense provided no fine shall in the aggregate exceed \$1,000. The defaulting Unit Owner shall be entitled to a hearing before other Unit Owners, upon reasonable written notice of not less than 14 days, specifying the provision of the Declaration, By-laws or Rules and Regulations which have been allegedly violated, the date, time and place of the hearing, and a statement of the matters asserted by the Association. The party against whom the fine 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.

5.3 Record of Mortgages on Units: The Board of Directors shall maintain a book, or other written record, of all holders of mortgages upon each Unit. The holder of each mortgage shall be designated as either an "institutional mortgagee" or not, as the case may be. Each Unit Owner must notify the Association of any mortgage on his or her Unit, and the name and address of the mortgagee, within five (5) days after entering into a mortgage on his Unit.

5.4 Response to Written Inquiry: Upon receipt by the Board of Directors of a written inquiry filed by a Unit Owner by certified mail, the Board of Directors shall respond in writing to the Unit Owner within thirty (30) days of receipt of the inquiry by either giving a substantive written response to the inquirer notifying the inquirer that a legal opinion has been requested, or notifying the inquirer that advice has been requested from the Division of Florida Land Sales, Condominiums and Mobile Home. If the Board of Directors requests advice from the Division, it shall, within ten (10) days of receipt of the advice, provide a written substantive response to the complainant. If a legal opinion is requested, the Board of Directors shall provide a written substantive response within sixty (60) days after the receipt of the inquiry. Failure to provide a substantive response as herein provided shall preclude the Board of Directors from recovering attorneys' fees and costs in any subsequent litigation, administrative proceeding or arbitration arising out of the complaint. The Board of Directors may adopt reasonable rules and regulations regarding the frequency and manner of responding to inquires, including that the Association is only obligated to respond to one written inquiry per Unit in any given thirty (30) day period.

## **ARTICLE VI. OFFICERS**

6.1 Officers and Election: The executive officers of the Association shall be a





President, who shall be a Director; a Vice President, Treasurer and Secretary and/or Assistant Secretary, all of whom shall be elected annually by the Board of Directors, and who may be peremptorily removed by vote of the Directors at any meeting. Any person may hold two or more offices except that the President shall not also be the Secretary or the Assistant Secretary. No person shall sign an instrument or perform an act in the capacity of more than one office. The Board of Directors from time to time may elect such other officers and designate their powers and duties as the Board shall find necessary to properly manage the affairs of the Association. After Developer has relinquished control of the Board as provided in Section 4.18(b) above, all officers must be Unit Owners.

6.2 President: The President shall be the chief executive officer of the Association. He or she shall have all of the powers and duties which are usually vested in the office of President of an Association, including but not limited to the power to appoint committees from time to time, from among the members or others as he or she may in his or her discretion determine appropriate, and to assist in the conduct of the affairs of the Association. He or she shall serve as Chairman at all Board and Membership meetings.

6.3 Vice President: The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. He or she shall also generally assist the President, and exercise such other duties as are incident to the office of the vice president of an association and as may be required by the Directors or the President.

6.4 Secretary and Assistant Secretary: The Secretary shall keep the minutes of all proceedings of the Directors and the members. He or she shall attend to the giving and serving of all notices to the members and directors, and other notices required by law and the Condominium documents. He or she shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed. He or she shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary of an association, as may be required by the Directors or the President. The Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent. The duties of the Secretary may be fulfilled by a manager employed by the Association.

6.5 Treasurer: The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He or she shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board of Directors for examination at reasonable times. He or she shall submit a treasurer's report to the Board of Directors at reasonable intervals and shall perform all other duties incident to the office of treasurer and as may be required by the Directors or the President. All monies and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board of Directors.

6.6 Compensation: Neither Directors nor officers shall receive compensation for their services as such, but this provision shall not preclude the Board of Directors from employing a Director or officer as an employee of the Association, nor preclude contracting with a Director or officer for the management of the Condominium or for any other service to be supplied by such Director or officer. Directors and officers shall be compensated for all actual and proper out of pocket expenses relating to the proper discharge of their respective duties. This Section is subject at all times to the prohibitions set forth in the Act with respect to what are commonly referred to as "kickbacks".

6.7 Resignation: Any Director or officer may resign his post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date



is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Units owned by any Director or officer (other than appointees of Developer or officers who were not Unit Owners) shall constitute a written resignation of such Director or officer.

6.8 Indemnification of Directors and Officers: To the extent permitted by Chapter 617, Florida Statutes, every Director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him or her in connection with any proceeding to which he or she may be a party or with which he or she may become involved by reason of being or having been a Director or officer at the time such expenses are or were incurred. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled.

## **ARTICLE VII. FISCAL MANAGEMENT**

The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions:

7.1 Accounts: Receipts and expenditures of the Association shall be credited and charged to accounts under the following classifications, as shall be appropriate.

(a) Current Expenses: Current expenses shall include all receipts and expenditures to be made within the year from which the receipts are budgeted and may include a reasonable allowance for contingencies and working funds, the balance in this fund at the end of each year shall be applied to reduce the assessment for current expenses for the succeeding year or to fund reserves.

(b) Reserves for Deferred Maintenance: Reserves for deferred maintenance shall include funds for maintenance items which occur less frequently than annually.

(c) Reserves for Replacement: Reserves for replacement shall include funds for repair or replacement required because of damage, depreciation or obsolescence.

(d) Betterments: Reserves for betterments shall be used for capital expenditures for additional improvements or additional personal property that will become part of the Common Elements. Reserves for betterments shall be budgeted within the sole discretion of the Board of Directors.

7.2 Budget:

(a) Adoption by Board; Items. The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium (which shall detail all accounts and items of expense and contain at least all items set forth in Section 718.504(21), Florida Statutes, if applicable), determine the amount of Assessments payable by the Unit Owners to meet the expenses of such Condominium and allocate and assess such expenses among the Unit Owners in accordance with the provisions of the Declaration. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance (to the extent required by law). These accounts shall include, but not be limited to, roof replacement, building painting and pavement resurfacing. The amount of reserves shall be computed by means of a formula which is based upon the estimated remaining useful life and the estimated replacement cost of each reserve item. Reserves shall not be required if the



members of the Association have, by a majority vote at a duly called meeting of members, determined for a specific fiscal year to provide no reserves or reserves less adequate than required hereby. If a meeting of Unit Owners has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves, as included in the budget, shall go into effect.

The adoption of a budget for the Condominium shall comply with the requirements hereinafter set forth:

(i) Notice of Meeting. A copy of the proposed budget of Common Expenses shall be mailed, hand delivered or electronically transmitted to the location furnished by the Unit Owner for that purpose not less than thirty (30) days prior to the meeting of the Board of Directors at which the budget will be considered, together with a notice of that meeting indicating the time and place of such meeting.

(ii) Special Membership Meeting. If a budget is adopted by the Board of Directors which requires Assessments against such Unit owners in any year exceeding one hundred fifteen percent (115%) of such Assessments for the preceding year, as hereinafter defined, upon written application of ten percent (10%) of the Unit Owners (i.e., 10% of the voting interests in the Association), received by the Board within twenty-one (21) days after adoption of the budget, a special meeting of the Unit Owners shall be held within sixty (60) days after adoption of the budget. Each Unit Owner shall be given notice of said meeting at least fourteen (14) days prior to such special meeting. At the special meeting, Unit Owners shall consider and adopt a budget. The adoption of said budget shall require a vote of Owners of not less than 50% of all the Units (including Units owned by Developer). If a meeting of the Unit Owners has been called as aforesaid and a quorum is not obtained or a substitute budget has not been adopted by the Unit Owners, the budget adopted by the Board of Directors shall go into effect as scheduled.

(iii) Determination of Budget Amount. In determining whether a budget requires Assessments against Unit Owners in any year exceeding one hundred fifteen percent (115%) of Assessments for the preceding year, there shall be excluded in the computations any authorized provisions for reasonable reserves made by the Board of Directors in respect of repair or replacement of the Condominium Property or in respect of anticipated expenses of the Association which are not anticipated to be incurred on a regular or annual basis, and there shall be excluded further from such computation Assessments for improvements to the Condominium property.

(iv) Proviso. As long as Developer is in control of the Board of Directors of the Association, the Board shall not impose Assessments for a year greater than one hundred fifteen percent (115%) of the prior year's Assessments, as herein defined, without the approval of a majority of all voting interests..

(b) Adoption by Membership. In the event that the Board of Directors shall be unable to adopt a budget for a fiscal year in accordance with the requirements of subsection 7.2(a) above, the Board of Directors may call a special meeting of Unit Owners for the purpose of considering and adopting such budget, which meeting shall be called and held in the manner provided for such special meetings in said subsection, or propose a budget in writing to the members, and if such budget is adopted by the members, upon ratification by a majority of the Board of Directors, it shall become the budget for such year.

7.3 Assessments: Assessments against a Unit Owner for his or her share of the items of the budget shall be made in advance on or before December 20 preceding the year for which the



Assessments are made. Such Assessment shall be due in twelve (12) equal monthly installments, one of which shall be due on the first day of each month of the year for which the Assessments are made. If an annual Assessment is not made as required, an Assessment shall be presumed to have been made in the amount of the last prior Assessment and monthly payments thereon shall be due from the first day of each month until changed by an amended Assessment. In the event the annual Assessment proves to be - insufficient, the budget and the Assessments may be amended at any time by the Board of Directors, subject to the provisions of Section 7.2 hereof, if applicable. Unpaid Assessments for the remaining portion of the fiscal year for which amended Assessments are made shall be payable in as many equal installments as there are full months of the fiscal year left as of the date of such amended Assessments, each such monthly (or quarterly) installment to be paid on the first day of the month, commencing the first day of the next ensuing month. If only a partial month remains, the amended Assessments shall be paid with the next regular installment in the following year, unless otherwise directed by the Board in its resolution.

7.4 Acceleration of Assessment Installment Upon Default: If a Unit Owner shall be in default in the payment of an installment upon his Assessments, the Board of Directors or its agent may accelerate the Assessments installments upon thirty (30) days prior written notice to the Unit Owner and the filing of a claim of lien, and the then unpaid balance of the Assessments for the balance of the budget year shall be due upon the date stated in the notice, but not less than five (5) days after delivery of the notice to the Unit Owner, or not less than ten (10) days after the mailing of such notice to the Unit Owner by certified mail, whichever shall first occur.

7.5 Assessments for Emergencies: Assessments for Common Expenses for emergencies that cannot be paid from the annual Assessments for Common Expenses shall be made only after notice of the need for such is given to the Unit Owners. After such notice the Assessment shall become effective, and it shall be due after thirty (30) days notice in such manner as the Board of Directors of the Association may require in the notice of Assessment.

7.6 Depository: The depository of the Association shall be in such bank or banks or other qualified financial institutions as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by appropriate resolution of the Board of Directors. All sums collected by the Association from Assessments or contributions to working capital or otherwise may be commingled in a single fund for investment purposes or divided into more than one fund for investment purposes, as determined by a majority of the Board of Directors.

7.7 Financial Reporting: The Association shall maintain accounting records in the State, according to uniform accounting principals and standards used by similar associations and in accordance with rules adopted by the Division. The records shall be open to inspection by Unit Owners or their authorized representatives at reasonable times and written summaries of them shall be supplied at least annually. The records shall include, but not be limited to, (a) a report of cash receipts and disbursements, and (b) an account for each Unit designating the name and current mailing address of the Unit Owner, the amount of Assessments, the dates and amounts in which the Assessments come due, the amount paid upon the account and the dates so paid, and the balance due. Written summaries of the records described in clause (a) above, in the form and manner specified below, shall be supplied to each Unit Owner annually.

Within ninety (90) days after the end of the fiscal year, the Association shall prepare and complete, or cause to be prepared and completed by a third party, a financial report for the preceding fiscal year. Within twenty-one (21) days after the financial report is completed or received by the Association from the third party, the Association shall mail, or furnish by personal delivery, to each Unit Owner a complete financial



report of cash receipts and disbursements for the previous twelve (12) months 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. The report shall show the amount of receipts by accounts and receipt classifications and shall show the amount of expenses by accounts and expense classifications, including, if applicable, but not limited to, the following:

- (a) Cost for security;
- (b) Professional and management fees and expenses;
- (c) Taxes;
- (d) Cost for recreation facilities;
- (e) Expenses for refuse collection and utility services;
- (f) Expenses for lawn care;
- (g) Cost for building maintenance and repair;
- (h) Insurance costs;
- (i) Administrative and salary expenses; and
- (j) Reserves for capital expenditures, deferred maintenance and any other category for which the Association maintains a reserve account or accounts.

Without a meeting of or approval by Unit Owners, the Association may prepare or cause to be prepared a complete set of audited financial statements, although, if approved by a majority of the voting interests at a properly called meeting of the Association, the Association may prepare or cause to be prepared a report of cash receipts and disbursements, as previously provided, a compiled financial statement, or a reviewed financial statement in lieu of the audited financial statement. Such meeting and approval must occur prior to the end of the fiscal year and is effective only for the fiscal year in which the vote is taken. Prior to turnover of control from the Developer to the Association, all Unit Owners including the Developer may vote on issues related to the preparation of financial reports for the first two years of the Association's operation, beginning with the fiscal year in which the Declaration is recorded. Thereafter, all Unit Owners except the Developer may vote on such issues until control is turned over to the Association by the Developer.

7.8 Fidelity Bond: Fidelity bonds shall be required by the Board of Directors from all persons who control or disburse funds of the Association, including those authorized to sign checks and the President, Secretary and Treasurer of the Association. The amount of such bonds shall be determined by the Directors but in any event shall not be less than the maximum funds that will be in the custody of the Association or its management agent at any one time for each such person. The premiums on such bonds shall be paid by the Association. In the case of a person providing management services to the Association and required to be licensed pursuant to Section 468.43, Fla. Stat., the cost of bonding may be reimbursed by the Association, provided such person shall provide to the Association a certificate of insurance in the amount not less than the maximum funds that will be in the custody of the Association or its management agent at any one time.



7.9 Application of Payment. All payments made by a Unit Owner shall be applied as provided in these By-Laws and in the Declaration or as otherwise determined by the Board.

7.10 Notice of Meetings. Notice of any meeting where Assessments against Unit Owners are to be considered for any reason shall specifically contain a statement that Assessments will be considered and the nature of any such Assessments.

#### **ARTICLE VIII. PARLIAMENTARY RULES**

8.1 Parliamentary Rules: Robert's Rules of Order, the latest edition, shall govern the conduct of the meetings of the Association and the Board of Directors when not in conflict with the Declaration, Articles of Incorporation or these By-Laws.

#### **ARTICLE IX. MISCELLANEOUS**

9.1 Policy of Nondiscrimination.: The Board of Directors of the Association is empowered to approve or disapprove of purchasers and lessees of Condominium Units and the Board shall make reasonable rules, regulations, and standards governing the approval or disapproval of purchasers or lessees which regulations and standards shall be designed to maintain a community of congenial residents of good character and with sufficient financial ability to timely pay the Assessments of the Association and taxes and other requirements for payments resulting from residence in the Condominium. However, no person shall be denied the right to purchase or lease a Unit because of race, religion, sex, national origin, marital status or handicap. Such standards by which purchasers and lessees within the Condominium shall be qualified, shall be drafted by or under the direction of the first elected Board of Directors after the Developer relinquishes control of the Association.

9.2 Rules and Regulations: Attached to the Prospectus of the Condominium as Exhibit "H" are initial rules and regulations (the "Rules and Regulations") concerning the use of portions of the Condominium. The Board of Directors may, from time to time, modify, amend or add to such Rules and Regulations, except that subsequent to the date control of the Board is turned over by the Developer to Unit Owners other than Developer, Owners of a majority of the Units may overrule the Board with respect to any such modifications, amendments or additions. Copies of such modified, amended or additional rules and regulations shall be furnished by the Board of Directors to each affected Unit Owner not less than thirty (30) days prior to the effective date thereof. At no time may any rule or regulations be adopted which would prejudice the rights reserved to Developer.

9.3 Construction: Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

9.4 Captions: The captions herein are inserted only as a matter of convenience and for reference, and in no way define or limit the scope of these By-Laws or the intent of any provision hereof.

9.5 Official Records: From the inception of the Association, the Association shall maintain a copy of each of the following, where applicable, which shall constitute the official records of the Association:



- a. The plans, permits, warranties and other items provided by Developer pursuant to Section 718.301(4), Florida Statutes;
- b. A photocopy of the recorded Declaration of Condominium and all amendments thereto;
- c. A photocopy of the recorded By-Laws of the Association and all amendments thereto;
- d. A certified copy of the Articles of Incorporation of the Association or other documents creating the Association and all amendments thereto;
- e. A copy of the current Rules and Regulations of the Association;
- f. A book or books containing the minutes of all meetings of the Association, of the Board of Directors, and of Unit Owners, which minutes shall be retained for a period of not less than 7 years;
- g. A current roster of all Unit Owners, their mailing addresses, Unit identifications, voting certifications, and if known, telephone numbers. The Association shall also maintain the electronic mailing addresses and numbers designated by Unit Owners for receiving notice by electronic transmissions of these Unit Owners consenting to receive notices by electronic transmission. The electronic mailing address and numbers provided by Unit Owners to receive notice by electronic transmission shall be removed from Association records when consent to receive notice by electronic transmission is revoked. However, the Association is not liable for an erroneous disclosure of the electronic mail address or the number for receiving electronic transmissions of notices;
- h. All current insurance policies of the Association and the Condominium;
- i. A current copy of any management agreement, lease, or other contract to which the Association is a party or under which the Association or the Unit Owners have an obligation or responsibility;
- j. Bills of sale or transfer for all property owned by the Association;
- k. Accounting records for the Association and the accounting records for the Condominium. All accounting records shall be maintained for a period of not less than 7 years. The accounting records shall include, but not be limited to:
  - (i) Accurate, itemized, and detailed records for all receipts and expenditures.
  - (ii) A current account and a monthly, bimonthly, or quarterly statement of the account for each Unit designating the name of the Unit Owner, the due date and amount of each Assessment, the amount



paid upon the account, and the balance due.

- (iii) All audits, reviews, accounting statements, and financial reports of the Condominium.
- (iv) All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of 1 year.
- I. Ballots, sign-in sheets, voting proxies and all other papers relating to elections, which shall be maintained for a period of 1 year from the date of the meeting to which the documents relates;
- m. All rental records where the Association is acting as agent for the rental of Units;
- n. A copy of the current Question and Answer sheet, in the form required by the Division, which shall be updated annually; and
- o. All other records of the Association not specifically listed above but which are related to the operation of the Association.

The official records of the Association shall be maintained in the State of Florida. The records of the Association shall be made available to a Unit Owner within five (5) working days after receipt of written request by the Board or its designee. This paragraph may be complied with by having a copy of the official records of the Association available for inspection or copying on the Condominium Property.

The official records of the Association are open to inspection by any Association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the Association member. The Association may adopt reasonable rules regarding the frequency, time, location, notice and manner of record inspections and copying.

The Association shall maintain an adequate number of copies of the Declaration, Articles of Incorporation and By-Laws and Rules, and all amendments to each of the foregoing, as well as the Question and Answer Sheet provided for in the Act and year end financial information required by the Act on the condominium property to ensure their availability to Unit Owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the same. Notwithstanding the foregoing, the following records shall not be accessible to Unit Owners:

- (aa) Any record protected by the lawyer-client privilege as described in Section 90.502, F.S., and any record protected by the work product privilege including any record prepared at the attorneys' express direction, which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the Association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of imminent civil or criminal litigation or imminent adversarial administrative proceedings until the conclusion of the





litigation or adversarial administrative proceedings.

- (bb) Information obtained by the Association in connection with the approval of the lease, sale or other transfer of a Unit.
- (cc) Medical records of Unit Owners.

9.6 Approval by Unit Owners as to Certain Litigation. The approval of a majority of all Unit Owners shall be required prior to the institution of any litigation by the Association other than litigation (i) to collect Assessments or enforce liens securing such Assessments, or (ii) to enforce occupancy and use restrictions set forth in this Declaration. In addition, the approval of a majority of all Unit Owners shall be required prior to the levy of a Special Assessment in which in whole or in part is for the purpose of funding attorneys' fees and costs incurred in connection with any litigation that requires Unit Owner approval as above provided. This paragraph controls over any contrary provision of this Declaration, the Articles of Incorporation or Bylaws. The purpose of this paragraph is to discourage unnecessary litigation by the Association and to provide for concurrence by Unit Owners prior to commencement of certain litigation.

9.7 Waiver of Jury Trial. All Unit Owners, the Association, the Developer and all other persons or entities that now or hereafter claim an interest in the Condominium Property hereby waive the right to a jury trial with regard to any litigation involving one or more of the aforesaid parties. It is the intent of this paragraph that any litigation, including without limitation, any litigation by the Association or Unit Owners against the Developer be tried by a judge without a jury in order to expedite such proceedings, to limit costs and expenses to be incurred, and to permit technical issues to be determined by the judge.

9.8 Arbitration of Disputes. If unresolved, disputes between the Board of Directors and Unit Owners, as defined in Section 718.155(1) of the Condominium Act must be arbitrated in mandatory non-binding arbitration proceedings as provided in the Condominium Act prior to commencing litigation.

#### **ARTICLE X. HURRICANE SHUTTERS**

10.1 The Board of Directors shall adopt hurricane shutter specifications for the Condominium which shall comply with all applicable building codes and shall include color, style and other factors deemed relevant by the Board. The Board may, subject to the provisions of Section 718.3026, Florida Statutes and the approval of a majority of voting interests of the Association, install hurricane shutters and may maintain, repair, or replace such approved hurricane shutters, whether on or within Common Elements, Limited Common Elements, Units or Association property. However, where laminated glass or window film architecturally designed to function as hurricane protection which complies with the applicable building code has been installed, the Board of Directors may not install hurricane shutters. The Board may operate shutters installed in accordance herewith without permission of the Unit Owners only where such operation is necessary to preserve and protect the Condominium Property and the Association property. The expense of installation, replacement, operating, repair and maintenance of hurricane shutters installed by the Association shall constitute a Common Expense. The expense of installation, replacement, operating, repair and maintenance of hurricane shutters installed by the Unit Owner(s) shall be the obligation of the Unit Owner(s).



## **ARTICLE XI. FREQUENTLY ASKED QUESTIONS AND ANSWERS**

11.1 The Board of Directors shall prepare a question and answer sheet in compliance with Section 718.504, Florida Statutes and shall update the same annually.

## **ARTICLE XII. AMENDMENT**

12. Amendments. Except as in the Declaration provided otherwise, these By-Laws may be amended in the following manner:

12.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered.

12.2 Adoption. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors or by not less than one-third (1/3) of the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the Secretary at or prior to the meeting. The approval must be:

(a) by not less than 75% of the votes of all members of the Association represented at a meeting at which a quorum has been attained and by not less than 75% of the entire Board of Directors; or

(b) after control of the Association has been turned over to Unit Owners other than Developer, by not less than 80% of the votes of the members of the Association represented at a meeting at which a quorum has been attained.

12.3 Proviso. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Developer or mortgagees of Units without the consent of said Developer and mortgagees in each instance. No amendment shall be made that is in conflict with the Articles or Declaration. No amendment to this Section shall be valid.

12.4 Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment to these By-Laws, which certificate shall be executed by the President or Vice-President and attested by the Secretary or Assistant Secretary of the Association with the formalities of a deed, or by Developer alone if the amendment has been adopted consistent with the provisions of the Declaration allowing such action by Developer. The amendment shall be effective when the certificate and a copy of the amendment is recorded in the Public Records of the County with an identification on the first page of the amendment of the Official Records Book and Page of said Public Records where the Declaration is recorded.



The foregoing was adopted as the By-laws of THE RESIDENCES AT SANDPEARL RESORT OWNER'S ASSOCIATION, INC., a corporation not-for-profit under the laws of the state of Florida at the first meeting of the Board of Directors on the 11<sup>th</sup> day of June, 2007.

THE RESIDENCES AT SANDPEARL RESORT OWNER'S ASSOCIATION, INC.

By Gail M. Cooper  
Name: Gail M. Cooper  
Title: President

Attest: Sandra K. [Signature]  
Secretary

