

BYLAWS  
FOR  
TUSCANY COURT CONDOMINIUM ASSOCIATION, INC.

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**BYLAWS**  
**OF**  
**TUSCANY COURT CONDOMINIUM ASSOCIATION, INC.**

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## BYLAWS

### TUSCANY COURT CONDOMINIUM ASSOCIATION, INC.

1. GENERAL: These are the Bylaws of Tuscan Court Condominium Association, Inc., hereinafter the "Association", a corporation not for profit organized under the laws of Florida for the purpose of operating a condominium pursuant to the Florida Condominium Act.

1.1 Principal Office. The principal office of the Association is located at 3561 Bonita Bay Boulevard, Bonita Springs, FL 34134.

1.2 Seal. The seal of the Association shall be inscribed with the name of the Association, the year of its organization, and the words "Florida" and "not-for-profit." The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

1.3 Definitions. The definitions set forth in the Declaration of Condominium shall apply to terms used in these Bylaws.

## 2. MEMBERS:

2.1 Qualifications. The members of the Association shall be the record Owners of legal title to the Units in Tuscan Court, a Condominium. In the case of a Unit subject to an agreement for deed, the purchaser in possession shall be deemed the Owner of the Unit for purposes of determining voting and use rights. Membership shall become effective upon the occurrence of the last to occur of the following events.

(A) Recording in the Public Records of a Deed or other instrument evidencing legal title to the Unit.

(B) Approval by the Board of Directors as provided for in the Declaration of Condominium.

(C) Delivery to the Association of a copy of the recorded deed or other instrument evidencing title.

(D) Delivery to the Association, if required, of a written designation of a primary occupant.

2.2 Voting Interest. The members of the Association are entitled to one vote for each Unit owned by them. The total number of possible votes (the "voting interests") is equal to the total number of Units. The vote of a Unit is not divisible. The right to vote may not be denied because of delinquent assessments. If a Unit is owned by one natural person, his right to vote shall be established by the record title to the Unit. If a Unit is owned jointly by two or more natural persons, that Unit's vote may be cast by any one of the record Owners. If two or more Owners of a Unit do not agree among themselves how their one vote shall be cast, that vote shall not be counted for any purpose. If the Owner of a Unit is a corporation, partnership, trust or other entity other than a natural person, the vote of that Unit shall be cast by any officer, director, partner or trustee, as the case may be.

2.3 Approval or Disapproval of Matters. Whenever the decision or approval of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, such decision may be expressed by any person authorized to cast the vote of such Unit at an Association meeting as stated in Section 2.2 above, unless the joinder of all record Unit Owners is specifically required.

2.4 Change of Membership. Following written approval of the Association, as elsewhere required herein, a change of membership in the Association shall be established by the new member's membership becoming effective as provided in 2.1 above. At that time the membership of the prior Unit Owner shall be terminated automatically.

2.5 Termination of Membership. The termination of membership in the Association does not relieve or release any former member from liability or obligation incurred under or in any way connected with the Condominium during the period of his membership, nor does it impair any rights or remedies which the Association may have against any former Unit Owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

### 3. MEMBERS' MEETINGS; VOTING:

3.1 Annual Meeting. There shall be an annual meeting of the members in each calendar year. The annual meeting shall be held in Lee County, Florida, each year at a day, place and time designated by the Board of Directors, for the purpose of transacting any business duly authorized to be transacted by the members. During the annual meeting the ballots cast in the annual election of Directors shall be counted and results announced.

3.2 Special Members' Meetings. Special members' meetings must be held whenever called by the President or by a majority of the Directors, and may also be called by members having at least 25% of the total voting interests. The business at any special meeting shall be limited to the items specified in the notice of meeting.

3.3 Notice of Meetings; Waiver of Notice. Notice of all members' meetings must state the time, date, and place of the meeting, and include an agenda for the meeting. The notice of meeting must be mailed to each member at the address which appears on the books of the Association, or may be furnished by hand-delivery or electronically transmitted in the manner set forth in Section 617.0141, Florida Statutes, to the extent that a member has consented to receive notices by electronic transmission and has not revoked such consent. Any such consent shall be deemed revoked if: the Association is unable to deliver by electronic transmission two consecutive notices given by the Association in accordance with such consent; and such inability becomes known to the Secretary, Assistant Secretary or other authorized person responsible for the giving of notice. However, the inadvertent failure to treat such inability as a revocation does not invalidate any meeting or other action. Notice of a meeting called to recall a member or members of the Board of Directors pursuant to Section 718.112(2)(j), Florida Statutes, shall in no event be given by electronic transmission. The member is responsible for providing the Association with notice of any change of mailing address, facsimile number or electronic mail address. To the extent that a member has provided the Association with a facsimile number or electronic mail address and consented to receive notices by electronic transmission, such information shall be considered an "official record" until the member has revoked his consent. However, the Association is not liable for an erroneous disclosure of electronic mail address or facsimile number. The notice of meeting must be mailed, electronically transmitted or hand-delivered at least 14 days before the meeting. An affidavit of the officer or other person making such mailing shall be retained in the Association records as proof of mailing. If ownership

of a Unit is transferred after notice has been mailed, no separate notice to the new Owner is required. Attendance at any meeting by a member constitutes waiver of notice by that member unless the member objects to the lack of notice at the beginning of the meeting. A member may waive notice of any meeting at any time, but only by written waiver.

3.4 Notice of Annual Meeting; Special Requirements. Notice of the annual meeting shall be posted in a conspicuous place on the condominium property for at least 14 continuous days prior to the annual meeting. In lieu of or in addition to the physical posting of notices of any meeting of the members 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 under these Bylaws and the Condominium Act. 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.

3.5 Quorum. A quorum at meetings of the members shall be attained by the presence, either in person or by proxy, of persons entitled to cast at least one-third (1/3rd) of the votes of the entire membership.

3.6 Vote Required. The acts approved by a majority of the votes cast at a duly called meeting of the members at which a quorum has been attained shall be binding upon all Unit Owners for all purposes, except where a greater or different number of votes is expressly required by law or by any provision of the condominium documents.

3.7 Proxy Voting. To the extent lawful, any person entitled to attend and vote at a members meeting may establish his presence and cast his vote by proxy. A proxy shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting, and no proxy is 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 the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the vote for the Unit, specify the date, time and place of the meeting for which it is given, and the original must be delivered to the Secretary by the appointed time of the meeting or adjournment thereof. Holders of proxies need not be members. No proxy shall be valid if it names more than one person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy.

3.8 Adjourned Meetings. Any duly called meeting of the members may be adjourned to be reconvened at a specific later time by vote of the majority of the voting interests present in person or by proxy, regardless of whether a quorum has been attained. When a meeting is adjourned it shall not be necessary to give notice to all members of the time and place of its continuance. Any business which might have been conducted at the meeting as originally scheduled may instead be conducted at the continuance, provided a quorum is then present, in person or by proxy.

3.9 Order of Business. The order of business at members' meetings shall be substantially as follows:

- (A) Collection of election ballots not yet cast and closing of polls (for annual meeting or turnover meeting)
- (B) Call of the roll or determination of quorum
- (C) Reading or disposal of minutes of last members meeting
- (D) Reports of Officers
- (E) Reports of Committees
- (F) Unfinished Business
- (G) New Business
- (H) Adjournment

3.10 Minutes. Minutes of all meetings of members and of the Board of Directors shall be kept in a businesslike manner and available for inspection by members or their authorized representatives and Board members at reasonable times and for a period of seven (7) years after the meeting. Minutes must be reduced to written form within 30 days after the meeting at which they were taken.

3.11 Parliamentary Rules. Roberts' Rules of Order (latest edition) shall guide the conduct of the Association meeting when not in conflict with the law, with the Declaration, or with these Bylaws. The presiding officer may appoint a Parliamentarian whose decision on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

4. BOARD OF DIRECTORS: The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Declaration, Articles of Incorporation, and these Bylaws, shall be exercised by the Board, subject to approval or consent of the Unit Owners only when such is specifically required.

4.1 Number and Terms of Service. The number of Directors which shall initially constitute the whole Board of Directors shall be 3. In order to provide for a continuity of experience by establishing a system of staggered terms, at the transition date, as reference in Section 10 of these Bylaws, the number of Directors to be elected shall be 3. The 2 candidates receiving the highest number of votes shall be elected for 2-year terms. The candidate receiving the next highest number of votes shall be elected for a 1-year term. In the event the Developer has the right to elect a Director following transition pursuant to Florida law, the Director elected by the Developer shall serve a 1-year term. In the case of tie votes, or in the event the number of candidates does not exceed the number of available seats, the Directors who are elected shall decide among themselves who shall serve the longer terms. Thereafter, all directors will be elected to 2-year terms. A Director's term will end at the annual election at which his successor is to be duly elected, unless he sooner resigns, or is recalled as provided in 4.5 below. Except for Directors appointed by the Developer, Directors shall be elected by the members as described in Section 4.3 below, or in the case of a vacancy, as provided in Section 4.4 below.

4.2 Qualifications Except for Directors appointed by the Developer, each Director must be a member or the spouse of a member. If a Unit is owned by a corporation, partnership, trust, or limited liability company, any officer, director, partner, trustee, managing member or member, or any spouse of such persons, shall be eligible to be a Director. However, spouses shall not simultaneously serve on the Board of Directors.

4.3 Nomination and Elections. Following transition, on the day of each annual meeting the members shall elect by written ballot as many Directors as there are regular terms of Directors expiring.



Notice of each annual election shall be given to all Unit Owners at least 60 days in advance. Any person eligible to serve as a Director who wishes to qualify as a candidate must notify the Association in writing of his desire to be a candidate at least 40 days prior to the annual election. The Association shall mail or deliver a second notice of the election, together with a ballot which shall list all candidates in alphabetical order by surname, not less than 14 nor more than 34 days prior to the election. Upon request of a candidate, the Association shall include an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate not less than 35 days before the election, to be included with the mailing of the ballot, with the costs of mailing or delivery to be borne by the Association. Directors shall be elected by a plurality of the votes cast. In the election of Directors, there shall be appurtenant to each Unit as many votes for Directors as there are Directors to be elected, but no Unit may cast more than one vote for any candidate, it being the intent hereof that voting for Directors shall be non-cumulative. Notices, candidate information sheets and ballots may be given by electronic transmission (to those members who have so consented), pursuant to rules adopted or to be adopted by the Division of Florida Land Sales, Condominiums and Mobile Homes.

4.4 Vacancies on the Board. If the office of any Director becomes vacant for any reason, a majority of the remaining Directors, though less than a quorum, shall promptly choose a successor. If for any reason there shall arise circumstances in which no Directors are serving and the entire Board is vacant, the members shall elect successors by written ballot in the same manner as provided generally for regular annual elections, except that the election need not take place on the date of the annual meeting.

4.5 Removal of Directors. Except for Directors appointed by the Developer, any or all Directors may be removed with or without cause by a majority vote of the entire membership, either by a written petition, or at any meeting called for that purpose, in the manner required by Florida law.

4.6 Organizational Meeting. The organizational meeting of a new Board of Directors shall be held within 10 days after the election. The organizational meeting may occur immediately following the election, in which case notice of the organizational meeting may be provided by the existing Board.

4.7 Other Meetings. Meetings of the Board may be held at such time and place in Lee County, Florida, as shall be determined from time to time by the President or a majority of the Directors. Notice of meetings shall be given to each Director, by hand-delivery or by mail, telephone or telegram at least 2 days prior to the day named for such meeting.

4.8 Notice to Owners. All meetings of the Board of Directors shall be open to members and notices of all Board meetings (including an agenda) shall be posted conspicuously on the condominium property for at least 48 continuous hours in advance of each Board meeting, except in an emergency. Any item not included on the agenda 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. Notice of any Board meeting at which a non-emergency special assessment or amendment to rules regarding Unit use will be considered shall conform to the requirements set forth in Section 6.6 below. Notice of any Board meeting at which a budget will be adopted or amended shall conform to the requirements of Section 6.2 below. The rights of Unit Owners to attend Board meetings includes the right to speak on designated agenda items, subject to the rules of the Association as to the manner of doing so. Notices of Board meetings may be given by electronic transmission (to those members who have so consented) in lieu of mail or hand-delivery, when the latter two methods are otherwise required pursuant to the Condominium Act. In lieu of or in addition to the physical posting of notices of any meeting of the Board 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 under these Bylaws and the Condominium Act. 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.

4.9 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. If all Directors are present at a meeting, no notice to Directors shall be required.

4.10 Quorum of Directors. A quorum at a Board meeting shall exist when at least a majority of all Directors are present at a duly called meeting. Directors may participate in any meeting of the Board, by a conference telephone call or similar communicative arrangement whereby all persons present can hear and speak to all other persons. Participation by such means shall be deemed equivalent to presence in person at a meeting. Directors may not vote or participate by proxy at Board meetings.

4.11 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum exists shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the condominium documents or by applicable statutes. A director who is present at a meeting of the Board shall be deemed to have voted in favor of any action taken, unless he voted against such action or abstained from voting because of an asserted conflict of interest. The vote or abstention of each Director present on each issue voted upon shall be recorded in the minutes.

4.12 Adjourned Meetings. The majority of the Directors present at any meeting of the Board, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specific time and date. At any reconvened meeting, provided a quorum is present, any business may be transacted that might have been transacted at the meeting as originally called.

4.13 The Presiding Officer. The President of the Association, or in his absence, the Vice-President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by majority vote of the Directors present.

4.14 Compensation of Directors and Officers. Neither Directors nor officers shall receive compensation for their services as such. Directors and officers may be reimbursed for all actual and proper out-of-pocket expenses relating to the proper discharge of their respective duties.

4.15 Committees. The Board of Directors may appoint from time to time such standing or temporary committees as the Board deem necessary and convenient for the efficient and effective operation of the Condominium. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. Meetings of a committee which takes final action on behalf of the Board or makes recommendations to the Board regarding the Association budget shall be open to attendance by any Unit Owner, and notice of such committee meetings shall be posted in the same manner as required in Section 4.8 above for Board meetings, including by broadcast on closed-circuit cable television system serving the Association. Section 4.8 shall not apply to any other committee except as stated in the preceding sentence.

5. OFFICERS:

5.1 Officers and Elections. The executive officers of the Association shall be a President, and a Vice-President, who must be Directors, a Treasurer and a Secretary, all of whom shall be elected annually by the Board of Directors. Any officer may be removed with or without cause by vote of a majority of all Directors at any meeting. Any person may hold two or more offices. The Board may, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one Vice-President.

5.2 President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the members and Directors, shall be ex-officio a member of all standing committees, shall have general and active management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect. He shall execute bonds, mortgages and other contracts requiring seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

5.3 Vice-Presidents. The Vice-Presidents in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the powers of the President; and they shall perform such other duties as the Board of Directors shall assign.

5.4 Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of the members and shall cause all votes and the minutes of all proceedings to be recorded in a book or books to be kept for the purpose, and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all meetings of the members and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. He shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the condominium documents. Any of the foregoing duties may be performed by an Assistant Secretary, if one has been designated.

5.5 Treasurer. The Treasurer shall be responsible for Association funds and securities, the keeping of full and accurate amounts of receipts and disbursements in books belonging to the Association, and the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. He shall oversee the disbursement of the funds of the Association, keeping proper vouchers for such disbursements, and shall render to the President and Directors, at the meetings of the Board, or whenever they may require it, an accounting of all transactions and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if any has been designated.

6. FISCAL MATTERS: The provisions for fiscal management of the Association set forth in the Declaration of Condominium shall be supplemented by the following provisions:

6.1 Depository. The Association shall maintain its funds in such financial institutions authorized to do business in the State of Florida as shall be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board.

6.2 Budget. The Board of Directors shall adopt a budget of common expenses for each fiscal year. A copy of the proposed budget and a notice stating the time, date and place of the meeting of the Board at which the budget will be adopted shall be mailed, hand-delivered or electronically transmitted (to those Unit Owners who have so consented) to the Owner of each Unit not less than 14 days prior to that meeting. The proposed budget shall be detailed and shall show the amounts budgeted by income and expense classifications.

6.3 Statutory Reserves for Capital Expenditures and Deferred Maintenance. In addition to annual operating expenses, the proposed budget must include reserve accounts for capital expenditures and deferred maintenance as required by law. The amount to be reserved shall be computed by a formula based upon estimated remaining useful life and the estimated replacement cost of each item. Prior to turnover of control of the Association by the Developer to Unit Owners other than the Developer, the Developer may vote to waive the reserves for the first 2 fiscal years of the Association's operation, beginning with the fiscal year in which the initial Declaration is recorded, after which time reserves may be waived or reduced only upon the vote of a majority of all non-developer voting interests voting in person or by limited proxy at a duly called meeting of the Association. After turnover, the reserves shall be funded unless the members subsequently determine by majority vote of those non-developer voting interests present in person or by proxy at a duly called meeting to fund no reserves or less than adequate reserves for a fiscal year. The vote to waive or reduce reserves, if any is taken, may be taken only after the proposed budget has been mailed to the Unit Owners as required in 6.2 above, but prior to the commencement of the fiscal year. Reserves funded under this paragraph, and all interest earned on such reserves, shall not be commingled with operating funds unless combined for investment purposes, and, prior to turnover of control of the Association shall be used only for the purposes for which they were reserved, unless their use for other purposes is permitted by law or is approved in advance by a majority of all non-developer voting interests voting in person or by proxy and voting at a members' meeting called for the purpose. Subsequent to turnover, reserves funded under this paragraph and all interest earned on such reserves, shall be used only for the purposes for which they were reserved, unless their use for other purposes is permitted by law or is approved in advance by a majority vote at a members' meeting called for the purpose.

6.4 Other Reserves. In addition to the statutory reserves provided in Section 6.3 above, or in place of them if the members so vote, the Board may establish one or more non-statutory reserves, which shall be unrestricted as to use. The purpose of these non-statutory reserves is to provide financial stability and to avoid the need for special assessments on a frequent basis. The amounts proposed to be so reserved shall be shown in the proposed annual budget as a line item in the operating portion of the budget. These funds may be spent for any purpose approved by the Board.

6.5 Assessments. Regular annual assessments based on the adopted budget shall be paid either monthly, or quarterly, as determined by the Board. Failure to send or receive notice of assessments shall not excuse the obligation to pay. If an annual budget has not been adopted at the time the first installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the last installment and shall be continued at such rate until a budget is adopted and pro rata assessments are calculated, at which time any overage or shortage shall be added or subtracted from each Unit's next due installment.

6.6 Special Assessments. Special assessments may be imposed by the Board of Directors when necessary to meet unusual, unexpected, unbudgeted, or non-recurring expenses. Special

assessments are due on the day specified in the resolution of the Board approving such assessments. A special assessment may not be levied during the Developer's guaranty of assessments period except that if the Developer-controlled Association has maintained all insurance coverage required by Section 718.111(11)(a), F.S., common expenses incurred during the stated period resulting from a natural disaster or an act of God occurring during the stated period, which are not covered by proceeds from insurance maintained by the Association, may be assessed against all Unit Owners owning Units as of the date of such natural disaster or act of God, and their respective successors and assigns, including the Developer with respect to Units owned by the Developer. Written notice of any Board meeting at which a non-emergency special assessment will be considered, must be mailed, hand-delivered or electronically transmitted (in the latter case, to those Unit Owners who have so consented) to all Unit Owners at least 14 days in advance, which notice shall state that assessments will be considered and the nature of any such assessments. The notice to Unit Owners that any special assessment has been levied must contain a statement of the purpose(s) of the assessment, and the funds collected must be spent for the stated purpose(s). If any funds remain upon completion of the purpose(s) such excess funds may, at the discretion of the Board, either be returned to the Unit Owners or applied as a credit towards future assessments.

6.7 Fidelity Bonds. The Treasurer, and all other officers who are authorized to sign checks, and all other persons having access to or control of Association funds, shall be bonded in such amounts as may be required by law or otherwise determined by the Board of Directors. The premiums on such bonds shall be a common expense.

6.8 Financial

(A) Financial Report. If required by law, not later than 90 days after the close of each fiscal year, the Board shall prepare and complete, or cause to be prepared and completed by a third party a financial report meeting the minimum standards of Section 718.111(13) of the Condominium Act, showing in reasonable detail the financial condition of the Association as of the close of its fiscal year. Within 21 days after the financial report is completed or received from the third party, 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 without charge, upon receipt of a written request from the Unit Owner.

(B) Financial Statement. If required by law, not later than 90 days after the close of each year, the Board shall cause to be prepared and completed by a certified public accountant a financial statement (compiled, reviewed or audited depending upon the Association's total annual revenues). The Association may waive a financial statement entirely or elect to perform a less intensive financial statement than otherwise required through approval obtained at a membership meeting. 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. All Unit Owners, including the Developer, may vote on issues related to the preparation of financial statements for the first 2 fiscal years of the Association's operations, beginning with the fiscal year in which the original Declaration is recorded. Thereafter, all Unit Owners other than the Developer may vote on such issues.

6.9 Fiscal Year. The fiscal year shall be the calendar year, unless modified by the Board of Directors.

7. RULES AND REGULATIONS: USE RESTRICTIONS: The Board of Directors may, from time to time, adopt new rules and regulations and amend the Rules and Regulations set forth as an Exhibit to the Declaration of Condominium. No new or amended rule may conflict with the rights which are contained in the Declaration of Condominium or inferable therefrom. Copies of such rules and regulations shall be furnished to each Unit Owner. Any rule or regulation created and imposed by the Board must be reasonably related to the promotion of health, happiness and peace of mind of the Unit Owners and uniformly applied and enforced. Rules regarding Unit use shall be adopted by the Board of Directors as set forth in Section 4.8 hereof. None of the Rules and Regulations set forth as an Exhibit to the Declaration of Condominium, as the same may be amended, shall be applicable to the Developer or Units owned by the Developer, unless specifically required by Florida law. Subsequent to turnover, and as long as Developer holds Units for sale in the ordinary course of business, the Board may not amend the Rules and Regulations in a manner which is detrimental to the Developer's sale of Units, unless the Developer consents in writing.

8. COMPLIANCE AND DEFAULT: REMEDIES: In addition to the remedies provided elsewhere in the condominium documents, the following provisions shall apply:

8.1 Fines. The Board of Directors may levy reasonable fines against Units whose Owners commit violations of the provisions of the Declaration, Bylaws or Rules and Regulations, or condone such violations by their family members, guests or lessees. The fines shall be in an amount deemed necessary by the Board to deter future violations, but in no event shall any fine exceed the maximum amounts allowed by law. The procedure for imposing such fines shall be as follows:

(A) The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing before a committee of other Unit Owners after reasonable notice of not less than 14 days, and the notice shall include:

- (1) A statement of the date, time and place of the hearing;
- (2) A statement of the provisions of the Declaration, Bylaws or Rules and Regulations which have allegedly been violated; and,
- (3) A short and plain statement of the matters asserted by the Association; and,

(B) The party against whom the fine may be levied shall have a reasonable 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. If the committee of other Unit Owners does not agree with the fine, the fine may not be levied. The Unit Owner shall be the party ultimately responsible for payment of a fine, regardless of whether the fine relates to conduct by a tenant, family member, invitee or guest.

8.2 Mandatory Non-Binding Arbitration. In the event of any "dispute" in Section 718.1255 Florida Statutes, between a Unit Owner and the Association, the parties must submit the dispute to mandatory non-binding arbitration under the rules of the Division of Florida Land Sales, Condominiums, and Mobile Homes prior to filing suit over the disputed matters.

8.3 Availability of Remedies. Each member, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of violations regardless of the

harshness of the remedy utilized by the Association and regardless of the availability of other legal remedies. It is the intent of all members to give the Association methods and procedures which will enable it to operate on a businesslike basis, to collect those monies due it and to preserve the majority's right to enjoy the condominium property free from unreasonable restraint and annoyance.

9. AMENDMENT OF BYLAWS. Amendments to these Bylaws shall be proposed and adopted in the following manner:

9.1 Proposal. Amendments to these Bylaws may be proposed by the Board of Directors or by written petition to the Board signed by the Owners of at least one-fourth (1/4) of the Units.

9.2 Vote Required. Prior to the turnover of control of the Association by the Developer to Unit Owners other than the Developer, the Board of Directors may amend these Bylaws. Subsequent to turnover a proposed amendment to these Bylaws shall be adopted if it is approved by at least two-thirds (2/3rds) of the total voting interests of the Association, provided that notice of the proposed amendment has been given to the members in accordance with law, except that an amendment to Section 6.6 above must be approved by at least four-fifths (4/5) of the total voting interests of the Association. As long as the Developer holds Units for sale in the ordinary course of business, no amendment to these Bylaws which is detrimental to the Developer's sale of Units shall be made unless the Developer consents in writing.

9.3 Certificate; Recording. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Bylaws, which certificate shall be in the form required by law and shall be executed by the President or Vice-President with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Lee County, Florida.

10. TRANSFER OF ASSOCIATION CONTROL:

10.1 Members' Rights to Elect Board of Directors. When Owners other than the Developer own 15% or more of the Units ultimately to be operated by the Association, the Owners other than the Developer shall be entitled to elect one-third (1/3) of the members of the Board of Directors. Unit Owners other than the Developer are entitled to elect a majority of the members of the Board of Directors upon the first of the following events to occur:

(A) Three years after 50% of the Units that will be operated ultimately by the Association have been conveyed to purchasers;

(B) Three months after 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 the developer in the ordinary course of business; or

(D) When some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the developer in the ordinary course of business.

(E) Seven years after recordation of the Declaration of Condominium; or if the Association may ultimately operate more than one condominium, 7 years after recordation of the Declaration for the first condominium the Association operates; or if the Association operates a phase condominium created pursuant to Sec. 718.403, F.S., 7 years after recordation of the Declaration creating the initial phase.

10.2 Developer's Right to Designate Members of Board of Directors. The Developer shall be entitled to designate at least one member of the Board of Directors as long as the Developer holds for sale in the ordinary course of business at least 5% of the Units. Following the date when the Developer relinquishes control of the Association, the Developer may exercise the right to vote any Developer-owned Units 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.

10.3 Transfer of Association Control. At the time of transfer of control of the Association, the Developer shall deliver to the Association all property of the Unit Owners and of the Association held or controlled by the Developer and all items and documents that the Developer is required to deliver or turn over to the Association under Florida law. The meeting at which transfer of control of the Association and the election of a majority of directors by Unit Owners other than the Developer occurs shall be noticed in accordance with Section 4.3

## 11. MISCELLANEOUS:

11.1 Gender. Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

11.2 Severability. Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

11.3 Conflict. If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration of Condominium or Articles of Incorporation, the provisions of the Declaration, and Articles of Incorporation shall prevail over the provisions of these Bylaws in that order of priority.

11.4 Unit Owner Inquiries. When a Unit Owner files a written inquiry by certified mail with the Board, the Board shall respond in writing to the Unit Owner within 30 days of receipt of the inquiry. The Board's response shall either give a substantive response to the inquirer, notify the inquirer that a legal opinion has been requested, or notify the inquirer that advice has been requested from the Division of Florida Land Sales. If the Board requests advice from the Division, the Board shall, within 10 days of receipt of the advice, provide in writing a substantive response to the inquirer. If a legal opinion is requested, the Board shall, within 60 days after receipt of the inquiry, provide in writing a substantive response to the inquiry. The failure to provide a substantive response to the inquiry as provided herein precludes the Board from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the inquiry. The Association may through its Board adopt reasonable rules and regulations regarding the frequency and manner of responding to unit owner inquiries, one of which may be that the Association is only obligated to respond to one written inquiry per Unit in any



given 30-day period. In such a case, any additional inquiry or inquiries must be responded to in the subsequent 30-day period, or periods, as applicable.

11.5 Certificate of Compliance. A certificate of compliance from a licensed electrical contractor or electrician may be accepted by the Board as evidence of compliance of the Units with the fire and life safety code that is applicable to the Condominium.

The foregoing were adopted as the first Bylaws of TUSCANY COURT CONDOMINIUM ASSOCIATION, INC. on this \_\_\_\_\_ day of \_\_\_\_\_ 2005.

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JERRY PETERSEN, PRESIDENT

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