

PREPARED BY:
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**CERTIFICATE OF AMENDMENT OF THE DECLARATION OF CONDOMINIUM FOR
TORTUGA BEACH CLUB, A CONDOMINIUM**

THE UNDERSIGNED being the President and Secretary of TORTUGA BEACH CLUB
CONDOMINIUM ASSOCIATION, INC., a Florida non-profit corporation, do hereby certify
that the attached Amendments to the Declaration of Condominium of Tortuga Beach Club,
A Condominium originally recorded in O.R. Book 1566, Page 2174 et seq. of the Public
Records of Lee County, Florida, were duly approved, adopted and enacted by the
affirmative vote of the required percentage of unit owners at a meeting called for that
purpose at which a quorum was present held on the 15th day of March, 2016.

Dated this 31st day of March, 2016.

WITNESSES:

(Sign) Elva Jane Nees
(Print) ELVA JANE NEES
(Sign) Betsy Cain
(Print) Betsy Cain

**TORTUGA BEACH CLUB CONDOMINIUM
ASSOCIATION, INC.**

BY: Bonnie L. Dehn
**Bonnie L. Dehn, President of the
Association**

(Address) 16485 Tulip St. NW
Andover, MN. 55304

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was acknowledged before me this 31st day of
March, 2016 by Bonnie L. Dehn, as President of Tortuga Beach Club
Condominium Association, Inc., a Florida non-profit corporation, on behalf of said
corporation. Said person is personally known to me or has produced NA as
identification and did (did not) take an oath.

NOTARY PUBLIC:



Cynthia K. Glasenapp
STATE OF FLORIDA (SEAL)
My Commission Expires: September 17, 2016

WITNESSES:

(Sign) Elva Jane Nees
(Print) ELVA JANE NEES
(Sign) Betsy Cain
(Print) BETSY CAIN

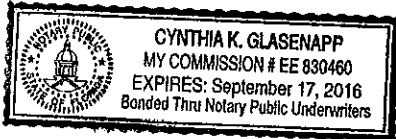
**TORTUGA BEACH CLUB CONDOMINIUM
ASSOCIATION, INC.**

BY: Robert M. Buechel, Jr.
Robert M. Buechel, Jr., Secretary of the
Association

(Address) _____

**STATE OF FLORIDA
COUNTY OF LEE**

The foregoing instrument was acknowledged before me this 31st day of March, 2016 by Robert M. Buechel, Jr., as Secretary of Tortuga Beach Club Condominium Association, Inc., a Florida non-profit corporation, on behalf of said corporation. Said person is personally known to me or has produced NA as identification and did (did not) take an oath.



NOTARY PUBLIC:
Cynthia K. Glasenapp
STATE OF FLORIDA (SEAL)
My Commission Expires: September 17, 2016

**AMENDMENT
TO
DECLARATION OF CONDOMINIUM
TORTUGA BEACH CLUB, A CONDOMINIUM**

Note: Words ~~stricken~~ are deletions; Words underlined are additions.

**XIX.
TERMINATION:**

A. Pursuant to a vote at a properly noticed members meeting ~~if fifty-one (51%)~~ seventy five percent (75%) of the Unit Owners and holders of all liens and mortgages affecting any of the Condominium Parcels agree to execute and duly record an instrument terminating the Condominium property (or if this percentage of Unit Owners and holders of all liens and mortgages simply execute and duly record and instrument terminating the Condominium property in lieu of a meeting), or if there exists a prohibition on the reconstruction or repair of a damaged improvement containing Condominium Units which are not tenantable, as required by Article XV, said property shall be deemed to be subject to termination and thereafter owned in common by the Unit Owners. The undivided interest in the Property owned in common by each Unit Owner shall then become the percentage of the undivided interest previously owned by such Owner in the Common Elements upon termination of the Condominium.

B. ~~It is understood that in the year 2021, the Purchasers of Units committed to Interval Ownership shall become tenants in common. The Board of Directors of the Association shall, no less than 30 days, nor more than 60 days, prior to the actual date of such conversion to tenancy in common, call a meeting of all Owners of Unit Weeks in Units committed to Interval Ownership. At such meeting, a vote shall be taken to decide the disposition of the Units committed to Interval Ownership. A quorum at such meeting shall be a majority of the total outstanding votes of all Owners of Unit Weeks in Units committed to Interval Ownership. At such meeting, the Owners, by a majority vote, may vote to continue their intervals, in which case the restrictive covenants set forth below will be adopted as covenants running with the land for a period of ten (10) years. The Board of Directors of the Association shall, no less than 30 days, nor more than 60 days, prior to the actual expiration of said ten year period, call a meeting of all Owners of Unit Weeks in Units committed to Interval Ownership. A quorum at such meeting shall be a majority of the total outstanding votes of all Owners of Unit Weeks in Units committed to Interval Ownership. The Owners may then vote to continue the intervals for an additional 10 year period. This process shall be repeated as the end of each successive 10 year period approaches. Should less than a majority of the Owners vote to continue the intervals at any such meeting, then the Board of Directors of the Association shall take the necessary steps to discontinue the Interval Ownership program at the Condominium, at which time the Board of Directors of the Association and each Owner of a Unit Week in a Unit committed to Interval Ownership shall have the right to take such action as is permitted by this Declaration and laws of the State of Florida. This shall include, but not be limited to, filing suit in a court of competent jurisdiction in Lee County, Florida for partition of the Units if permitted by applicable law.~~

~~In the event~~ For so long as the Owners do not terminate the Condominium vote to continue their Unit Weeks as provided above, then each Owner shall have the exclusive right to occupy his Unit, and as between Owners to use and enjoy the Common Elements and Association Properties of the Condominium, and the rights and easements appurtenant to his Unit during his Unit Weeks (and, in the case of Developer, during all Unit Weeks not theretofore conveyed, and to authorize others so to do, together with the non-exclusive right in common with all other Owners, but only when acting through the Association), to maintain and repair the Units during maintenance weeks. No Owner shall occupy his Unit, or exercise any other rights of Ownership in respect of his Unit other than the rights herein provided to him, during any other Unit Weeks unless expressly so authorized by the Owner entitled to occupy the Unit during such Unit Weeks or during any maintenance week except when acting through the Association. Each Owner shall keep his Unit and all furnishings in good condition and repair during his Unit Weeks, vacate the Unit at the expiration of his Unit Weeks, remove all persons and property therefrom excluding only furnishings, leave the Unit in good and sanitary condition and repair, and otherwise comply with such reasonable checkout and other procedures as may from time to time be contained in rules promulgated by the Association.

Subject to the laws of the State of Florida, no Owner or other person or entity acquiring any right, title or interest in a Unit shall seek or obtain through any legal procedures, judicial partition of the Unit or sale of the Unit in lieu of partition at any date prior to the termination of the condominium property expiration of each successive ten (10) year period voted by a majority of the Owners. If, however, any Unit Weeks shall be owned by two or more persons as tenants-in-common or as joint tenants, nothing herein contained shall prohibit a judicial sale of the Unit Weeks in lieu of partition as between such co-tenants or joint tenants.

C. **Certificate of Termination; Termination Trustee:** The termination of the Condominium property shall be evidenced by a Certificate of Termination, executed by an Officer of the Association with the formalities of a deed, certifying to the facts effecting the termination. Written joinders or consents, executed with the formalities of a deed from the requisite number of voting interests of the Association, and mortgage holders, if required, shall be included in or be attached to the Certificate of Termination. The certificate shall include the name and address of a Termination Trustee, which must be one of the following: (1) the Association; (2) a Florida financial institution with trust powers; or (3) a licensed Florida attorney. The Certificate of Termination shall be signed by the Trustee indicating willingness to serve in that capacity. Termination of the Condominium occurs when a Certificate of Termination meeting the requirements of this section is recorded in the Public Records of Lee County, Florida. The recording of that Certificate of Termination automatically divests the unit owners of legal title, and vests legal title to all real and personal property formerly the condominium property (hereinafter the "Property") in the Termination Trustee named in the Certificate of Termination without need for further conveyance. Beneficial title to the Property shall be owned by the former unit owners as tenants in common in undivided shares, such shares being the same as the undivided shares in the common elements appurtenant to the units as provided elsewhere in this Declaration. On termination, each lien encumbering a condominium parcel shall be transferred automatically to the beneficial shares in the Property with the same

priority.

D. **Wind-up of Association Affairs.** The termination of the Condominium does not, by itself, terminate or dissolve the Association. The former unit owners and their successors and assigns shall continue to be members of the Association, and the members of the Board of Directors and the officers of the Association shall continue to have the powers granted in this Declaration, the Articles of Incorporation, and Bylaws, and by law, for the purpose of winding up the affairs of the Association. The powers of the Association include the authority to sell real or personal property owned by the Association and distribute net proceeds therefrom, and insurance proceeds, to the unit owners in shares that are the same as the undivided shares in the common elements appurtenant to the units as provided elsewhere in this Declaration.

E. **Trustee's Powers and Duties.** The Termination Trustee shall hold title to the Property for the benefit of the former unit owners and their successors, assigns, heirs, devisees, mortgagees, and other lienholders, as their interests shall appear. If the former unit owners approve a sale of the Property as provided in this section, the Termination Trustee shall have the power and authority to convey title to the Property and distribute the net proceeds in accordance with the provisions of this Declaration. In the event the Association is not the Trustee, the following provisions shall apply:

(1) The Trustee shall be entitled to charge a reasonable fee for acting in such capacity, and that fee, and all costs and expenses incurred by the Trustee in the performance of its duties, may be paid from the proceeds of the sale of the Property.

(2) The Trustee shall be entitled to be indemnified and held harmless by the Association and its members from any and all liabilities and costs incurred by virtue of acting as Trustee, except those resulting from the Trustee's gross negligence or malfeasance.

(3) The Trustee may rely on written instructions and information provided by the officers, directors, and agents of the Association, and shall not be required to inquire beyond such information and instructions.

F. **Partition; Sale.** Following termination, the Condominium Property may be partitioned and sold on the application of any unit owner. If at least two-thirds (2/3rds) of the total voting interests of the membership of the Association agree to accept an offer for the sale of any or all of the Property or to create a new Condominium, the Board of Directors shall notify the Termination Trustee, and the Trustee shall complete the transaction. The Trustee shall have the authority to execute any and all documents to complete the sale and convey legal title to the Property, provided an agreement setting forth the terms and conditions of the sale is approved and executed by the requisite two-thirds of the voting interests, which agreement must be recorded in the Public Records of Lee County, Florida, prior to or simultaneous with the sale of the Property to a third party. In the event of a sale approved by the unit owners, any action for partition of the Property shall be held in abeyance pending the sale, and on the consummation of the sale shall be discontinued by all parties thereto. If the former unit owners have not authorized a sale of the Property within one year after the recording of the Certificate of Termination, the

Trustee may proceed to sell the Property in a commercially reasonable manner without agreement by the former unit owners, or may file an appropriate lawsuit to request judicial assistance regarding the partition and sale of the Property. The proceeds of the sale of any of the Property or assets of the Association shall be distributed by the Termination Trustee to the beneficial owners thereof, as their interests shall appear.

G. **New Condominium.** The termination of the Condominium does not bar creation of another condominium including all or any portion of the same property.

H. **Provisions Survive Termination.** The provisions of this Article are covenants running with the land, and they shall survive the termination of the Condominium until all matters covered by these provisions have been completed. The Board of Directors shall continue to function in accordance with the Bylaws and Articles of Incorporation, and applicable law, and shall have the power to levy assessments and to pay the costs and expenses of maintaining the property until it is sold. The costs of termination, the fees, and expenses of the Termination Trustee, as well as post-termination costs of maintaining the Property, are common expenses, the payment of which is secured by a lien on the beneficial interest owned by each former unit owner, which to the maximum extent permitted by law shall be superior to, and take priority over, all other liens.