

This Instrument Prepared by:
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**DECLARATION OF CONDOMINIUM
FOR
LAGUNA POINTE CONDOMINIUMS**

THIS DECLARATION OF CONDOMINIUM is made this 21st day of February, 2002, by Laguna Pointe, Inc., a Florida corporation, as owner of the real property hereinafter described, and developer of the improvements thereon (hereinafter called the "Developer"), for itself, its successors, grantees, assignees and/or their transferees, WITNESSETH:

WHEREAS, said Developer, as owner, makes the following declaration:

1. **PURPOSE.** The purpose of this Declaration is to submit the lands described in **Exhibit "A"** of this instrument, and improvements on such lands, to the condominium form of ownership and use in the manner provided by Chapter 718, *Florida Statutes* (hereinafter referred to as the "Condominium Act" or the "Act"), and the Developer does hereby submit the lands described in this instrument, and improvements on such lands, to the condominium form of ownership and use.

1.1 The name by which this condominium is to be identified is LAGUNA POINTE CONDOMINIUMS, and Phase I will consist of eighteen (18) 3-bedroom and 2-bathroom residential units, located in one four (4) story building. Unless otherwise noted, the term "unit" shall refer to each of the residential units.

1.2 The address of this condominium is 4080 Indigo, Pensacola, Escambia County, Florida, 32507.

1.3 The lands owned by the Developer, which by this instrument are submitted to the Condominium form of ownership, are those certain lands lying in Escambia County, Florida, as described in **Exhibit "A,"** attached hereto and made a part hereof, which shall hereinafter be referred to as the "Land." The Land shall be subject to conditions, restrictions, limitations, easements, and reservations of record.

2. **DEFINITIONS.** The terms used in this Declaration and in the Articles of

Incorporation and the Bylaws shall have the meaning stated in the Condominium Act (Chapter 718, *Florida Statutes*) and as follows, unless the context otherwise requires. Further, whenever the context so requires, the use of any gender shall be deemed to include all genders, the use of the plural shall include the singular and the singular shall include the plural.

3. **DEVELOPMENT PLANS.**

3.1 **Improvements.** Laguna Pointe Condominiums, Phase I, is described and established as follows:

3.1.1 A legal description of the Land, together with a narrative and graphic description of the improvements in which units are located and a site plan thereof, in sufficient detail to identify the Common Elements (as defined in this Declaration), Limited Common Elements (as defined in this Declaration), and each unit in their respective location and approximate dimensions is set forth in **Exhibit "A"** to this Declaration of Condominium.

3.1.2 Where more than one typical unit has been acquired by the same owner and combined into a single dwelling place, the unit plans, as described in Exhibit "A" may not reflect the interior plans of the combined units, but the exterior boundaries of the combined units remain the same. Should any units be combined, the combined units shall exist as separate units as described in this Declaration for the purpose of applying the provisions of this Declaration and all exhibits attached hereto. Should the combining of units as described in this paragraph be determined to violate the provisions of F.S. 718.110(4), an amendment to this Declaration shall be approved, executed and recorded as required by F.S. 718.110(4).

3.1.3 **Unit Identifications.** The legal description of each unit shall consist of the identifying number of such unit, as shown in **Exhibit "A"** attached hereto. Every deed, lease, mortgage or other instrument may legally describe a unit and/or condominium unit by its identifying number as provided for on the attached **Exhibit "A"** and each and every description shall be deemed good and sufficient for all purposes.

3.1.4 **No Time-Share Estates.** Time-share estates will not be created with respect to units of this Condominium.

3.2 Laguna Pointe Condominiums, Phases II, III, IV and V are described and will be established as follows:

3.2.1 Reservation of Right to Expand. The Developer reserves the right to expand this Condominium to include either one, two, three or four additional phases, entitled Phases II, III, IV and V, respectively, and in any order, which phases shall each consist of additional land and an additional building containing additional condominium units and additional common elements, all as more particularly described herein. The Developer may exercise its reserved right to expand the Condominium to include any one or more of additional Phases II, III, IV and V by filing Supplemental Declarations of Condominium in the public records of Escambia County, Florida, in the manner set forth herein on or before the 31st day of December, 2006. The time period in which the phases must be completed is on or before the 31st day of December, 2006. Within the confines of the limitations set forth herein, the Developer shall have the sole discretion to determine whether or not to expand the Condominium to include Phases II, III, IV and V. Any phase or phases not added to the Condominium may be used by the Developer for any use permitted by applicable zoning, at its discretion.

3.2.2 Description of Additional Phases. The additional phases of the Condominium that may be developed and added as a part of the Condominium will be known as Phases II, III, IV and V, respectively, and will consist of additional real property as described in Exhibit "A-1" attached to this Declaration and will each contain one 4-story building, and with each additional phase being more particularly described as follows:

(a) Phase II will consist of additional real property as described in Exhibit "A-1" attached to the Declaration of Condominium and will contain one 4-story building containing six (6) units. Each unit will have three bedrooms and two bathrooms, and the maximum size of each unit will be 1,800 square feet, and the minimum size of each unit will be 1,500 square feet. Each unit will be constructed entirely on one level. The first or ground floor will be for parking and there will be two units on each of Floors 2, 3 and

4. The improvements that will be contained within Phase II will be located and constructed substantially in accordance with the graphic description attached to the Declaration as Exhibit "A-1".

(b) Phase III will consist of additional real property as described in Exhibit "A-1" attached to the Declaration of Condominium and will contain one 4-story building containing six (6) units. Each unit will have three bedrooms and two bathrooms, and the maximum size of each unit will be 1,800 square feet, and the minimum size of each unit will be 1,500 square feet. Each unit will be constructed entirely on one level. The first or ground floor will be for parking and there will be two units on each of Floors 2, 3 and

4. The improvements that will be contained within Phase III will be located and constructed substantially in accordance with the graphic description attached to the Declaration as Exhibit "A-1".

(c) Phase IV will consist of additional real property as described in Exhibit "A-1" attached to the Declaration of Condominium and will contain one 4-story building containing six (6) units. Each unit will have three bedrooms and two bathrooms, and the maximum size of each unit will be 1,800 square feet, and the minimum size of each unit will be 1,500 square feet. Each unit will be constructed entirely on one level. The first or ground floor will be for parking and there will be two units on each of Floors 2, 3 and

4. The improvements that will be contained within Phase IV will be located and constructed substantially in accordance with the graphic description attached to the Declaration as Exhibit "A-1".

(d) Phase V will consist of additional real property as described in Exhibit "A-1" attached to the Declaration of Condominium and will contain one 4-story building containing six (6) units. Each unit will have three bedrooms and two bathrooms, and the maximum size of each unit will be 1,800 square feet, and the minimum size of each unit will be 1,500 square feet. Each unit will be constructed entirely on one level. The first or ground floor will be for parking and there will be two units on each of Floors 2, 3 and

4. The improvements that will be contained within Phase V will be located and constructed substantially in accordance with the graphic description attached to the Declaration as Exhibit "A-1".

3.2.3 Fractional Share in Common Elements and Common Surplus and Liability for Common Expenses. Each unit's fractional share in the common elements and the common surplus of the Condominium and each unit's fractional share of the common expenses of the Condominium after each Phase is added pursuant to the Developer's reserved right of expansion, is set forth in Exhibit "B".

3.2.4 Commonly Used Recreation Areas and Facilities. The recreational areas and facilities to be owned as common elements by all unit owners are shown in Exhibit "A".

3.2.5 Membership Vote. Each unit in the Condominium, as expanded, will be entitled to one vote. The ownership in the Association attributable to each unit and each phase, and the results if the phase is not developed and added as part of the Condominium, is set forth in Exhibit "B".

3.2.6 No Time-Share Estates. No time-share estates will or may be created with respect to units in any phase of the Condominium.

3.2.7 Notice of Additional Phase. The Developer shall notify owners of existing units of the decision not to add one or more additional phases. Notice shall be by first class mail addressed to each owner at the address of his or her unit or at his or her last known address.

3.2.8 Supplemental Declarations and Supplemental Plans. The Developer's reserved right to expand the Condominium by adding Phases II, III, IV and V shall be accomplished by the Developer filing of record in the public records of Escambia County, Florida, within the time limitations set forth herein, supplements to this Declaration containing a legal description of the additional land to be added to the Condominium, together with supplemental surveys and supplemental graphic descriptions of the improvements located on the additional lands, which shall contain at least the same information with respect to the additional lands and the additional improvements as was required on the original survey and graphic description of the

improvements attached hereto as Exhibit "A." The expansion of the Condominium by adding additional Phases II, III, IV and V may be accomplished by Supplemental Declarations of Condominium as herein provided, and such Supplemental Declarations need be executed and acknowledged only by the Developer and need not be executed or acknowledged by, nor consents nor other approvals obtained from the Association, any unit owner, or the lienors or mortgagees of units, owners, or of the Condominium, whether or not elsewhere required for an amendment. All improvements on the lands to be added shall be substantially completed before such lands are added to the existing Condominium. Liens arising in connection with the Developer's ownership of and construction of improvements upon the land to be added shall not adversely affect the rights of existing owners or the priority of first mortgages on units in the existing Condominium property.

3.2.9 Expansion of Definitions. In the event of the expansion of the Condominium to include additional Phases II, III, IV and V, the definitions used in this Declaration automatically shall be expanded to encompass and shall refer to the Condominium as so expanded. Thus, for example, the "land" shall mean the real property described in Paragraph 1.3 above, plus any additional real property added by a Supplemental Declaration. All conveyances of condominium units after such expansion shall be effective to transfer rights to the Condominium as expanded, by reference to the unit number, this Declaration, and the Supplemental Declaration.

3.2.10 Supplemental Declarations Effective to Vest Share of New Common Elements in Owners of Old Units. The recording in the public records of Escambia County, Florida, of a Supplemental Declaration of Condominium shall operate to vest in the owners of condominium units in the Condominium as it existed before the expansion, the respective undivided interest in the common elements and surpluses (including all added as a result of expansion) as set forth in Exhibit "B". Such recordation shall also vest in any then mortgagee of any condominium unit in the Condominium as it existed before the expansion, a mortgage or security interest encumbering the undivided interest in the common elements and surplus (including all added as a result of expansion) as set forth in Exhibit "B" which are appurtenant

to the condominium unit encumbered by the mortgage.

3.2.11 Supplemental Declarations Effective to Vest Share of Old Common Elements in New Owners. Any land, unit, building or improvement added to the Condominium pursuant to the authorization created herein shall be subject to all of the terms and conditions of this Declaration and of the Supplemental Declarations, and the condominium units therein shall be subject to condominium ownership with all of its incidents pertaining thereto as specified herein upon recording a Supplemental Declaration of Condominium in the public records of Escambia County, Florida. The recordation of such Supplemental Declaration shall operate automatically to vest in the owners of the condominium units added by such expansion, the respective undivided interest in all the common elements and surplus of the Condominium as it exists after the expansion, including the common elements and common surpluses of any prior phase of the Condominium.

3.2.12 Computation of Fractional Undivided Interest in Common Elements. The computation of fractional undivided interest in the common elements and the common surplus is more particularly set forth in Exhibit "B". If Phases II, III, IV or V are not added, the units which are built are entitled to 100% ownership of all common elements within Phase I which is actually developed as the Condominium.

3.2.13 Time Limitation on Expansion. The Developer may expand the Condominium in the manner provided herein to include Phases II, III, IV and V, at any time on or before the 31st day of December, 2006.

4. **UNIT BOUNDARIES, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS.** Each unit shall include that part of the unit, which boundaries are as follows:

4.1 Upper and Lower Boundaries. The upper and lower boundaries of the unit shall be the following boundaries extended to an intersection with the perimetrical boundaries:

4.1.1 Upper Boundary shall be the horizontal plane of the undecorated, finished ceiling.

4.1.2 Lower Boundary shall be the horizontal plane of the undecorated, finished floor.

4.2 Perimetrical Boundaries. The perimetrical boundaries of the unit shall be the vertical plane of the undecorated and/or unfinished inner surfaces of the walls bounding the unit, extended to intersection with each other and with the upper and lower boundaries.

4.3 Units Occupying Two Floors. When any unit is so constructed as to occupy two floors or parts of two floors of a building, the same definition set forth above shall apply, except that the floor between the bottom and the top floors of such a unit shall be a limited common element and the unit boundaries shall end at the horizontal plane of the undecorated finished ceiling and floor.

4.4 Boundaries - Further Defined. The boundaries of the unit shall not include all of those spaces and improvements lying within the undecorated and/or unfinished inner surfaces of the perimeter walls and those surfaces above the undecorated finished ceilings of each unit, and those surfaces below the undecorated finished floor of each unit, and further, shall not include those spaces and improvements lying within the undecorated and/or unfinished inner surfaces of all interior bearing walls and/or bearing partitions, and further shall exclude all pipes, ducts, wires, conduits and other utilities running through any interior wall or partition for the furnishing of utility services to other units and/or for the Common Elements.

4.5 Common Elements. The "Common Elements" shall include the following:

4.5.1 All condominium property which is not included within the units and not defined as Limited Common Elements.

4.5.2 Easements through units for conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services to units and the Common Elements.

4.5.3 An easement of support in every portion of a unit which contributes to the support of the building.

4.5.4 The property and installations required for the furnishing of utilities and other services to more than one (1) unit or to the Common Elements.

4.6 Limited Common Elements. The "Limited Common Elements," as the term is used herein, shall mean those portions of the Common Elements which are reserved herein, or assigned, or granted separately herefrom, for the use of a certain unit to the

exclusion of other units, and shall include:

4.6.1 To each unit containing a balcony, the balcony area contiguous to and serving only that unit.

4.6.2 The ground level parking under the Condominium building and in the covered parking structure as designated on the ground floor plan as set forth in Exhibit "A" to this Declaration. The ground floor parking for Units 103 and 301 is in the covered parking structure.

4.6.3 To each unit in the condominium, the heating and air-conditioning equipment serving only that unit.

4.6.4. Except that Units 301 and 302 will be assigned the three (3) storage lockers adjacent to the ground level parking spaces allocated to Units 301 and 302, the one storage locker on the ground floor assigned to the particular unit and which is designated on the ground floor plan set forth in Exhibit "A" to this Declaration. In general, the storage locker for each unit is located at the closed-in end of the parking space assigned to a particular unit, as reflected on the ground floor plan contained within Exhibit "A" to this Declaration.

4.7 Dock and Boat Slip Facilities. Developer is negotiating with the State of Florida for a submerged land lease in the intra-coastal waterway adjacent to Phase I of Laguna Pointe Condominiums. Developer does not in any manner guarantee that it will be successful in negotiating such a submerged land lease. The initial term of the submerged land lease, if acquired, will not exceed five years, but may be renewable subject to compliance with lease provisions and applicable law. Neither the sovereign submerged lands, nor the leasehold interest therein, nor the facilities that will exist on the leasehold will be submitted to condominium ownership. The Developer, however, will grant the Association the power to enter into leases to provide for the commonly used facilities, subject, however, to the rights of the Developer and the owners of the exclusive rights to use the individual boat slips, as hereinafter more particularly set forth, and the Association shall have the power to promulgate rules and regulations with respect to the use and maintenance of the dock and the boat slips and related facilities. If the Developer is successful in negotiating for a submerged land lease and actually constructs a dock and boat slip facilities

on the submerged lands covered by the lease, then each of the numbered boat slips ("Boat Slips") will be depicted in Exhibit "A" to this Declaration and shall be subject to being assigned and/or leased by the Developer to individual unit owners within the condominium or to any owner of any of the property that is now described herein as being part of Phases II through V, inclusive, of Laguna Pointe Condominiums (herein the Phases II through V Property). The assignments or leases shall be in accordance with such terms and conditions as the Developer determines to be appropriate and shall be in accordance with the following plan of the Developer, and the further provisions of this Paragraph 4.7 shall be applicable. For a period of five years from the date this Declaration is recorded in the public records of Escambia County, Florida, the Developer shall have the sole and exclusive right to assign, transfer or sell to individual unit owners within the condominium or to any owner of any portion of the Phases II through V Property, the exclusive right to the use of a particular Boat Slip. Upon the assignment, transfer or sale of a Boat Slip to an individual owner, the exclusive right to use said Boat Slip shall become vested in said owner to whom it is assigned, transferred or sold for so long a period of time as the submerged land lease or any renewal or extension is in existence, or until the exclusive right to use the said Boat Slip is assigned or transferred by said owner to another owner. The lease and the dock will be owned by the Developer, until assigned and transferred to the Association, which assignment and transfer will be to the extent permitted by the State of Florida, and the lease and dock shall be considered to be commonly used facilities, subject, however, to the rights of the Developer and to the use and access rights of the owners of the exclusive rights to use the boat slips.

Notwithstanding any other provision of the Declaration to the contrary relating to maintenance, the Association shall maintain and repair the dock, the Boat Slips, and Boat Slip facilities, pay the utilities thereon, maintain appropriate insurance, and pay the submerged land lease fee. Each owner of an exclusive right to use a Boat Slip shall pay to the Association a monthly fee equal to the cost of maintaining the said Boat Slip and the related Boat Slip facilities, plus the Boat Slip's pro rata cost of utilities that service the Boat Slips and the Boat Slip's proportionate share of the insurance and the submerged land lease fee, together with a reasonable administrative charge to be set by the Association, which

monthly fee shall be referred to herein as the "Regular Boat Slip Assessment". All costs of maintenance and repair of the dock and the submerged land lease fee which are not covered by the Regular Boat Slip Assessments shall be part of the common expense for the commonly used facilities. Regular Boat Slip Assessments are due and payable at the same time as the regular common expenses as provided for in Paragraph 16 of this Declaration, and if not paid when due, the Association shall have the same rights for collection and imposition of liens on both the Boat Slip and on the unit or on the portion of the Phases II through V Property owned by the owner of the exclusive right to use the Boat Slip as it has for common expenses and shall have the same priority therefore, all as set forth in Paragraph 16 of this Declaration.

The Association shall also have the right to assess, levy and collect Special Boat Slip Assessments against each owner of an exclusive right to use a Boat Slip to cover cost and expenses associated with the maintenance, repair or replacement of the Boat Slip or Slips and related facilities, the insurance premiums, and the utilities, if the cost and expenses cannot be paid by the Regular Boat Slip Assessments or insurance proceeds. The foregoing right to assess, levy and collect shall be in accordance with Paragraph 16 of this Declaration. If any such Special Boat Slip Assessment is not paid when due, the Association shall have the same collection and lien rights against the Boat Slips and against the unit or against the portion of the Phases II through V Property owned by the owner of the exclusive right to the use of the Boat Slip, in order to collect the Special Boat Slip Assessments, and shall have the same lien priority therefore, as it has to collect regular Special Assessments as provided for in Paragraph 16 of this Declaration.

The exclusive right to use a Boat Slip shall not be granted to or held by any person or legal entity other than a unit owner in Laguna Pointe Condominiums or the owner of any portion of the Phases II through V Property. An owner of an exclusive right to use a Boat Slip shall have the right to assign, transfer, sell or devise such right to another unit owner, or any owner of any portion of the Phases II through V Property, or to the Association, but not any other individual or entity. Any such assignment, transfer or sale shall be accomplished by the execution and delivery of an instrument of conveyance identifying the Boat Slip by number and by reference to Exhibit "A" of this Declaration and by recording

the same in the public records of Escambia County, Florida.

In the event that the Association acquires the ownership of a Boat Slip and the exclusive right to use a Boat Slip, then until such time as the Association transfers the said Boat Slip and the exclusive right to use the Boat Slip to another unit owner, or owner of any portion of the Phases II through V Property, the said Boat Slip and exclusive right of use shall be held and treated as part of the commonly used facilities of the condominium. In the event that the Developer has not assigned, sold or transferred all rights to the exclusive use of all Boat Slips within five years from the date that this Declaration is recorded, then all of the Developer's rights with respect to Boat Slips which have not been assigned or transferred shall vest in the Association, and the Association shall have the sole right, in its discretion, to assign and transfer to any individual unit owner, or owner of any portion of the Phases II through V Property, the exclusive right to use an individual Boat Slip for such length of time and pursuant to such terms and for such lease payment as the Association deems appropriate.

Use of the Dock, the Boat Slips, and the Boat Slip Facilities by the owners and their respective successors, assigns, tenants, guests, invitees and designees shall be in compliance with all of the provisions of the Declaration, all of the rules and regulations of the Association, as promulgated from time to time, and shall be used in compliance with all of the terms and provisions of any assignment documents and of the submerged land lease. The Association shall have the right to adopt such reasonable rules and regulations as necessary to control the use of the Dock so as to promote the enjoyment and best interests of all of the unit owners, and with respect to the Boat Slips and related facilities so as to promote the intended purpose of this provision. Any damage to the Dock, or Boat Slips, or Boat Slip Facilities shall be repaired or not repaired in accordance with the provisions set forth in Paragraph 15 of this Declaration.

The Developer intends to assign the submerged land lease to the Association if permission can be obtained from the State of Florida for such assignment. Any such assignment or attempted assignment must be accepted by the Association. If Assignment is not permitted, the Association shall pay the annual lease fee to the Developer, who shall forward it to the lessor without profit or fee, and the Developer shall retain the lease for the benefit of the Association. Developer hereby expressly reserves the right to grant, and/or

the right to direct that the Association grant, at Developer's election, a standard proprietary deed conservation easement to the State of Florida which will affect certain portions of the condominium property as determined from time to time by the Developer. At Developer's option, the Association shall be required to enforce and comply with the terms and conditions of the conservation easement.

In addition to such rules and regulations as may be promulgated by the Association, from time to time, and as may be contained in any assignment and/or lease agreement with respect to the Boat Slips, the following shall pertain to the dock, the Boat Slips, and the Boat Slip facilities. All boats shall be fully equipped and operable for operation on the sea (except during the period of temporary repairs not to exceed seven [7] days); shall be equipped with all safety of life at sea equipment required by U. S. Coast Guard requirements and federal, state and local laws; shall comply with all licensing and registration requirements; and shall be fully insured as reasonably required by the Association. No boat may be used as a residence, whether overnight or longer, and no live-a-boards shall be permitted. All barge type boats or vessels with no methods of self-propulsion are prohibited. No boat, and no person who owns or controls a boat, shall be permitted to discharge any sewage, trash, petroleum products, or other waste overboard into the sea.

5. **OWNERSHIP.**

5.1 **Type of Ownership.** Ownership of each condominium unit may be in fee simple or in any other estate in real property recognized by law and subject to this Declaration. No timeshare interests shall be created or sold.

5.2 **Association Membership.** The owners of record of the units shall be members of Laguna Pointe Condominium Association of Pensacola, Inc., hereinafter the "Association." (See Paragraph 13 below.) There shall be one (1) membership for each unit and if there is more than one (1) record owner per unit, then such membership shall be divided among such owners in the same manner and proportion as is their ownership in the unit.

5.3 **Unit Owner's Rights.** The owner of the unit is entitled to the exclusive possession of his unit. The owner of the unit shall be entitled to use the Common Elements in accordance with the purposes for which they are intended, but no such use shall hinder or