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AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

BERMUDA WALK

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS is made this 4 day of OCT, 2002 by **BERMUDA WALK PROPERTY OWNERS' ASSOCIATION, INC.**, a Florida corporation (hereinafter referred to as the "Association").

RECITALS:

The original declaration of covenants and restrictions for Bermuda Walk was recorded in Official Record Book 2707 at Page 1561, Public Records of Brevard County, Florida and was amended thereafter. That declaration, with any amendments to date, is hereby amended in part and then restated in its entirety.

Section 1. DEFINITIONS. The following definitions shall apply in this Declaration and in the Articles of Incorporation and By-Laws, unless the context otherwise requires:

1.1 "Articles" means the Amended and Restated Articles of Incorporation as amended from time to time.

1.2 "Assessment" means a share of the funds required for the payment of common expenses which from time to time is assessed against the Lots.

1.3 "Association" means BERMUDA WALK PROPERTY OWNERS' ASSOCIATION, INC., a Florida corporation not for profit, its successors, assigns and legal representatives.

1.4 "Association Certificate" means a document which must be executed by the president or vice president and secretary or assistant secretary of the Association.

1.5 "Board of Directors" or "Board" means the representative body which is responsible for the administration of the Association's affairs.

1.6 "By-Laws" mean the Amended and Restated By-Laws as amended



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from time to time.

1.7 "Common Area" or "Common Areas" means and refers to those Properties which are intended to be devoted to the common use and the enjoyment of the Owners and occupants, in this Declaration, as well as the portions of the Properties less the Lots, and as well as all personal property owned, leased by or dedicated to the Association for the common use and enjoyment of the Owners and occupants. More specifically, "Common Area" consists of Tracts G-10 (recreation building site); G-3 (park site); S-1 (private streets); G-1, G-2, G-4 through G-11 and G-12 (drainage and utilities); and G-13 and G-14 (emergency access exclusively), all located on the Subdivision Plat.

1.8 "Community" means Bermuda Walk, which is legally described in Exhibit "A" to this Declaration.

1.9 "County" means Brevard County, Florida.

1.10 "Declaration" means this instrument as amended from time to time.

1.11 "Dwelling Structure" means a residential single family home situated on a Lot, including all improvements associated with the home on the Lot. Unless the context specifically provides otherwise, reference to the term "Dwelling Structure" shall not include the Lot.

1.12 "General Plan of Development" means that plan as approved by appropriate governmental agencies which shall represent the total general scheme and general uses of land in the Properties, as it may be amended from time to time.

1.13 "Governing Documents" means and includes this Declaration and all Exhibits hereto, including the Articles of Incorporation and By-Laws, as amended from time to time.

1.14 "Guest" means any person who: (A) is physically present in, or occupies the Lot at the invitation of the Owner or other legally permitted occupant, without requirement to contribute money, perform services or provide any other consideration to the Owner or lessee in connection with such presence or occupancy; (B) is not the Owner or lessee of the Lot on which he or she is present; and (C) is not a member of the family of the Owner or lessee of the Lot on which he or she is present. Notwithstanding the foregoing, an Owner or lessee of the Lot on which he or she is present shall be considered a Guest if he or she is not a permanent occupant of that Lot. Furthermore, a member of the family of the Owner or lessee of a Lot shall be considered a Guest unless he or she is a permanent occupant of such Lot.

1.15 "Institutional Mortgagee" means the holder (or its assignee) of a mortgage against a Lot, which mortgagee is a bank, savings and loan association,

mortgage company, insurance company, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, or any agency of the United States of America. The term also refers to any holder of a mortgage against a Lot which mortgage is guaranteed or insured by the Federal Housing Administration, the Veterans Administration, any agency of the United States of America, or by any other public or private corporation engaged in the business of guaranteeing or insuring residential mortgage loans, and their successors and assigns. "Institutional First Mortgagee" means the foregoing, but is limited to the holder of a first mortgage. "Institutional Mortgage" means a mortgage held by an Institutional Mortgagee.

1.16 "Lease" means the grant by an Owner of a temporary right of use of the Owner's Dwelling Structure and Lot for valuable consideration.

1.17 "Lot" means a residential parcel of real property as described on any of the recorded Subdivision Plat. Unless the context specifically provides otherwise, reference to the term "Lot" shall include the Dwelling Structure and all other improvements on the Lot, but shall not require that a Dwelling Structure be on the Lot.

1.18 "Member" or "Member of the Association" means a record Owner of a Lot, subject to that provided for in Section 4.3 below.

1.19 "Original Declaration" means that declaration of covenants and restrictions recorded in Official Record Book 2707, Page 1571, Public Records of the County, together with exhibits and amendments thereto.

1.20 "Occupy" shall mean and refer to the act of being physically present on a Lot for two (2) or more consecutive days, including staying overnight. "Occupant" is a person who occupies a Lot. A "permanent occupant" means an Owner or lessee of a Lot or member of such Owner's or lessee's family who regularly resides on such Lot.

1.21 "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot, but excluding those having such interests merely as security for the performance of an obligation.

1.22 "Properties" means all real property, including improvements thereon, which are now or hereafter made subject to this Declaration.

1.23 "Rules and Regulations" means those rules and regulations promulgated from time to time by the Board of Directors, governing the use of the Properties, including the Lots, and the operation of the Association.

1.24 "Subdivision Plat" means the Plat of Port Malibar Unit Fifty-Nine, as recorded in Plat Book 32, Page 78, Public Records of the County.





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1.25 "Voting Interest" means and refers to the arrangement established in the Governing Documents by which the Owners of each Lot collectively are entitled to one vote in Association matters.

Section 2. PROPERTY SUBJECT TO THIS DECLARATION. The real property which is and shall be transferred, sold, conveyed and occupied subject to this Declaration, is legally described in Exhibit "A" attached to and made a part of this Declaration.

Section 3. EASEMENTS. Where necessary for the validity of the following easements, the Original Declaration will be deemed in full force and effect.

3.1 Ingress and Egress. A perpetual non-exclusive easement is reserved and exists to the Association and to the owners, their families, Guests, and lessees upon, over and across the sidewalks, walkways, and right-of-way and other Common Areas, which are appurtenant to and shall pass with the title to each Lot.

3.2 Utilities. There is hereby reserved and exists a perpetual non-exclusive easement to all utility or service companies servicing the Community upon, over, across, through, and under the Lots and Common Area for ingress, egress, installation, replacement, repair, and maintenance of all utility and service lines and systems including, but not limited to water, irrigation, sewer, gas, telephone, electricity, television cable or communication lines and systems, and including the police and fire departments. It shall be expressly permissible for the Association or the providing utility or service company to install and maintain facilities and equipment on said property, to excavate for such purposes and to affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of the Dwelling Structures, providing such company restores any disturbed area to the condition existing prior to their activity; provided, however, that no utility service line or system may be installed or relocated within the Common Area without the consent of the Association. The easements over, across, through and under the Lots shall be limited to improvements as originally constructed. The Association further has the power to grant all needed easements for cable television and telecommunication services. This power to create or reserve an easement shall also include the power to modify or relocate easements which are created and/or which exist to date, except that where an easement crosses any Lot, the Owners of the Lot must approve of the modification or relocation. To the extent the Association is obligated by governmental authority, if at all to maintain the water and sewer systems in the Community, except for the portion of said systems as lie within the boundaries of Lots, such obligations shall be fully performed by the Association. Said obligations shall be performed in a continuous and satisfactory manner.

3.3 Drainage and Storm Water Runoff. There is hereby reserved and exists an easement for drainage from each Lot onto an adjoining Lot and the Common Area. It shall be the responsibility of the Owner of the Lot for whose benefit this easement exists, to ensure that the drainage flow from his Lot remains open and free. It shall be the



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responsibility of the Association to ensure that the drainage flow from the Common Area remains open and free.

- A. No structure, planting or other material shall be placed or permitted to remain in the Common Area which might impair or interfere with the drainage or temporary retention of storm water runoff of the Properties or other contiguous property.
- B. The obligation to maintain the Common Area for drainage purposes shall be an obligation of the Association unless and until the area becomes subject to a governmental special assessment district for maintenance and control thereof at which time the Association shall relinquish control and each member of the Association shall be required to make payments of the assessment established by the governmental authority.
- C. In the event the Association is dissolved or otherwise ceases to exist, then in such event the Association shall have the right to assign, transfer and deliver over to a governmental authority or to any other like organization the powers herein reserved to this Association. However, the City of Palm Bay and any special assessment district created thereby is under no obligation to accept any such assignment or transfer.
- D. The Common Area related to drainage may also become subject to a municipal special assessment district for maintenance and control of the drainage system. In the event that the property does become subject to such municipal special assessment district, then the Association shall relinquish control of the drainage system and transfer title thereto to such district. In such event, the assessments shall be reduced by the amount the Association has budgeted for maintenance and control of the drainage system, and the members shall be billed and shall be responsible for payment of their individual share to such maintenance district. In the event that the Association establishes a higher level of maintenance over the drainage system than that required by the governmental authority, then in such event the assessments will be increased by that amount.

3.4 Public Easements; Access Easements for Emergency Services.

- A. Fire, police, health, sanitation and other public service



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personnel and vehicles shall have a perpetual, non-exclusive easement for ingress and egress over and across the Common Area.

- B. No structures or obstructions shall be permitted within access easements for emergency services indicated on the Subdivision Plat.

3.5 Easement for Unintentional and Non-Negligent Encroachments. If any Lot improvement shall encroach upon any portion of the Common Areas or upon an easement by reason of original construction of the building, then an easement for such encroachment shall exist so long as the encroachment exists. Such easement shall include the right of ingress and egress during reasonable times of day for the purpose of maintaining and repairing the encroachment. Any exercise of the right of ingress and egress for maintenance and repair shall not be deemed a trespass.

3.6 Association Easement. For the purpose solely of performing its duties and responsibilities authorized by this Declaration, and in addition to any other easements granted to it, the Association, through its duly authorized agents, employees or independent contractors, shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours of any day except Sunday. In the event of an emergency, such right of entry shall exist, without notice and on any day, including Sunday. Each Owner hereby grants to the Association, its duly authorized agents, employees or independent contractors such easements for ingress and egress, across the Lots and through improvements constructed upon the Lots, as may be reasonably necessary to affect and perform the Association's duties.

3.7 Zero Lot-Line Wall and Patio Easements for Lots having Zero Lot Lines.

- A. Zero Lot-Line Walls. Each Dwelling Structure shall contain one windowless exterior wall (the "Zero Lot-Line Wall:") which shall face an adjacent Lot ("Adjacent Lot").
- B. Drainage Easement and Roof Runoff. An easement is hereby granted to the Association, its officers, agents and employees to enter upon, across, over and under any Lot for the purpose of changing, correcting or otherwise modifying the grade or drainage channels of a Lot so as to improve the drainage of water from the Lots or Common Area. It shall be the responsibility of each Owner to take reasonable measures, whether by landscaping or otherwise, to protect an Adjacent Owner's Lot or the Common Area from water running off of such Owner's roof onto an Adjacent Owner's Lot or onto the



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Common Area and no Owner shall have liability to or otherwise be responsible to any other Owner or to the Association for any loss, expense or damage resulting from such roof runoff.

- C. Patio and Repair Easements. Subject to the temporary easements hereinafter described, a perpetual four-foot exclusive easement is hereby created, covering the ground area between: (1) a line running the length of the Zero Lot-Line Wall and extending to the front and rear of each Lot containing the Wall, and (2) the property line of each Adjacent Lot for the benefit of the Owner of each Adjacent Lot for any purposes consistent with this Declaration. In addition to the Patio Easement, each Owner of a Dwelling Structure shall have an easement on the property surrounding an Adjacent Owner's Dwelling Structure, whether the same is located on such other Owner's Lot, the perpetual easement above-described, or the Common Area, for the purpose of temporarily utilizing ladders and such other equipment as may be required to repair any Zero Lot-Line Wall or other exterior wall or the roof of a Dwelling Structure. Such easement shall be of a temporary nature and shall exist only for such reasonable period of time as is required to make such repairs or perform such maintenance. Such temporary easement shall extend onto such other Owner's Lot, perpetual easement, or the Common Area for only such distance as is reasonably required to undertake and perform such repair and maintenance work.
- D. Right of Owner with Respect to Maintenance of Zero Lot-Line Wall. The Owner of the Dwelling Structure containing the Zero Lot-Line Wall shall have the right at all reasonable times to enter the Patio Easement Area and such other portion of the Adjacent Lot as is reasonably necessary for the purpose of repairing, maintaining, or restoring the Zero Lot-Line Wall; provided, however, that such access shall be permitted only at reasonable times during the daylight hours and with the prior knowledge of the Owner of the Adjacent Lot.
- E. Restrictions on Owner of Adjacent Lot. The Owner of the Adjacent Lot shall avoid any action which shall in any way restrict the use and maintenance of the Zero Lot-Line Wall and the adjoining four-foot perpetual easement by the Owner including, but not limited to, refraining from attaching any objects to such wall, such as wires, trellises and plantings;



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defacing the wall in any manner; placing graphics or other design work (whether painted or otherwise) on the Zero Lot-Line Wall; using the wall as a playing surface for any sport; or causing any excessive planting to be installed within the limits of said four-foot easement.

- F. Restrictions on Owner with Residence Containing Zero Lot-Line Wall. The Owner of the Dwelling Structure containing the Zero Lot-Line Wall shall similarly be prohibited from attaching anything to such wall or from altering it in any way other than painting the wall subject to Section 7.13.A below. Additionally, the Owner of such Dwelling Structure shall not make any openings for windows or otherwise on such wall and shall take no other action, except as specifically contemplated herein, in connection with such Wall which shall interfere with the privacy of the Owner of the Adjacent Lot.

Section 4. ASSOCIATION. The operation of the Community is by BERMUDA WALK PROPERTY OWNERS' ASSOCIATION, INC., a Florida corporation not-for-profit, which shall perform its functions pursuant to this Declaration, and the following:

4.1 Articles of Incorporation. The Articles of Incorporation of the Association shall be the Amended and Restated Articles of Incorporation attached as Exhibit "B", as amended from time to time.

4.2 By-Laws. The By-Laws of the Association shall be the Amended and Restated By-Laws of the Association attached as Exhibit "C", as amended from time to time.

4.3 Membership and Voting Rights. The membership of the Association shall be as provided in the Articles of Incorporation and By-Laws. The Owners of each Lot shall collectively be entitled to that vote as more fully provided in the Articles of Incorporation and By-Laws.

4.4 Limitation on Association Liability.

- A. Notwithstanding its duty to maintain and repair certain Properties, the Association shall not be liable to the Owners for injury or damage caused by Properties for which the Association has responsibility to maintain. In the event that any portion of the Properties for which the Owner has maintenance responsibility under this Declaration, or any real or personal property of the Owner, shall be damaged in the course of the Association's maintenance, repair or



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replacement of those Properties for which the Association has responsibility, the Owner shall bear the full risk of loss. The only exception under this Section 4.4.A. is where the Association (whether for itself or its contractor) is guilty of gross negligence or intentional misconduct which causes the loss, in which case the Association bears the risk of loss created by same (with any available contribution from the contractor or others). This Section 4.4.A shall also apply where the loss results in the course of the Association's reconstruction and repair after casualty.

- B. The Association shall in no event be liable for any damages resulting from an Owner's breach of his or her maintenance, repair and replacement responsibility under this Declaration.

Section 5. ASSESSMENTS AND LIENS; CHARGES. The Association has the power to levy and collect assessments against each Lot and Owner in order to provide the necessary funds for proper operation and management of the Community and for the operation of the Association, including both annual assessments for each Lot's share of the common expenses as set forth in the annual budget, and special assessments for any proper common expenses. The Association may also levy Charges against Individual Lot(s) and Owner(s) for any amounts, other than for common expenses, which are properly chargeable against such Lot and Owner under the Governing Documents.

5.1 Common Expenses. Common expenses include all expenses of the operation, maintenance, repair, replacement or insurance of the Common Area, certain portions of the Lots, the expenses of operating the Association and for the promotion of the recreation, health, safety and welfare of the residents, bulk rate cable television and telecommunication fees and charges, if any, and any other expenses properly incurred by the Association for the Community, including any amounts (if any) budgeted for the purpose of funding reserve accounts.

5.2 Share of Common Expenses. All Lots shall be assessed equally.

5.3 Ownership. Assessments collected by or on behalf of the Association become the property of the Association. No Owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his Lot. No Owner has the right to withdraw or receive distribution of his share of the common surplus, except as otherwise provided in the Governing Documents or by law.

5.4 Who is Liable for Assessments. The Owner of each Lot, regardless of how title was acquired, is liable for all assessments or installments thereon coming due while he is the Owner. Multiple Owners are jointly and severally liable. Except as otherwise provided in Section 5.8.A below, whenever title to a Lot is transferred for any



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reason, the transferee is jointly and severally liable with the transferor for all unpaid assessments against the transferor, regardless of when incurred, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee.

5.5 No Waiver or Excuse From Payment. The liability for assessments may not be avoided or abated by waiver of the use or enjoyment of any Common Area, by abandonment of the Lot on which the assessments are made, by interruption in the availability of the Lot or the Common Area for any reason whatsoever, by non-use of any services which are a common expense, or by dissatisfaction with the Association and/or its operation and policies. No Owner may be excused from payment of his share of the common expenses unless all Owners are likewise proportionately excused from payment, except as otherwise provided in Section 5.8.A below as to certain mortgagees.

5.6 Application of Payments: Failure to Pay; Interest; Late Fees. Assessments and installments thereon paid on or before sixty (60) days after the date due shall not bear interest, but all sums not so paid shall bear interest at the highest rate of interest per annum which may be lawfully charged, calculated from the date due until paid. In addition, any assessments or installments not paid on or before sixty (60) days after the date due shall result in the imposition of a late fee in an amount equal to the higher of \$25.00 or five (5%) percent of the late payment. The Association may also charge an administrative fee over and above any bank charges for returned checks, as provided for in the Rules and Regulations. Assessments and installments thereon shall become due, and the Owner shall become liable for the assessments or installments, on the date established in the By-Laws or otherwise set by the Board of Directors of the Association for payment. All payments on account shall be applied in the following order irrespective of any restrictive endorsement, designation or instruction placed on or accompanying any payment: To interest, late fees, costs and attorneys'/paralegals' fees, and annual and/or special assessments first due and owing. If payment is made by check which fails to clear, then the Owner shall be considered not to have made payment.

5.7 Liens. The Association has a lien on each Lot securing payment of past due assessments, including late fees, interest and attorneys' and paralegal fees and costs incurred by the Association incident to the collection of the assessment or enforcement of the lien, whether before, during or after a lien foreclosure suit or other lawsuit. The lien may result in the recording of a claim of lien in the public records of the County, stating the legal description of the Lot, the name of the record Owner, the assessments past due and the due dates. The lien is in effect until barred by law. The claim of lien secures all unpaid assessments and charges coming due prior to a final judgment of foreclosure. Upon full payment, the person making the payment is entitled to a satisfaction of the lien.

5.8 Priority of Lien.



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A. Rights of Certain Mortgagees. The Association's lien for unpaid assessments shall be subordinate and inferior to any recorded first Institutional Mortgage, unless the Association's claim of lien was recorded before the mortgage, but shall be superior to, and take priority over, any other mortgage regardless of when the mortgage was recorded.

1. With respect to any such mortgage which has superiority over the Association's claim of lien: When the mortgagee or other purchaser obtains title to the Lot as a result of foreclosure of the mortgage, or a deed in lieu of foreclosure, the acquirer of title, its successors and assigns, shall not be liable for any delinquent assessments due and owing to the Association pertaining to the Lot or chargeable to the former Owner of the Lot which became due prior to the acquisition of title as a result of foreclosure or a deed in lieu of foreclosure. These unpaid assessments shall be deemed to be a common expense collectible from all of the Owners, including such acquirer of title, and his successors and assigns.

B. Leases. Any lease of a Lot shall be subordinate and inferior to any claim of lien of the Association, regardless of when the lease was executed.

C. Relation Back. The continuing lien as well as claim of lien of the Association shall relate back to the recording of the Original Declaration for purposes of obtaining priority over the holder of any recorded non-first Institutional Mortgage and the record owner of any lien on any Lot other than the recorded first Institutional Mortgage recorded prior to the recording of the Association's claim of lien.

5.9 Foreclosure of Lien: Action at Law. The Association may bring an action in its name to foreclose its lien for unpaid assessments in the same manner in which mortgages are foreclosed in the State of Florida and may also bring an action to recover a money judgment for unpaid assessments without waiving any lien rights. In addition to any assessments due, the Association shall be entitled to recover interest, late fees, and all costs of collection, including court costs and paralegal and attorneys' fees. Whenever the Association shall bring a lien foreclosure action, the Association shall be entitled to receive a reasonable rental from the Owner, pending litigation, for that time period during which the Owner is in possession of the Lot either by himself, or tenants, guests or other occupants; the Association is entitled to an appointment of a receiver, which may be the



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Association, to collect the rent.

5.10 Certificate As To Assessments. The Association shall provide a certificate stating whether all assessments and other monies owed to the Association by the Owner with respect to the Lot have been paid, within fifteen (15) days after request by an Owner or mortgagee. Any person other than the Owner who relies upon such certificate shall be protected thereby.

5.11 Charges.

A. Defined. Each Lot and Owner shall be liable for Charges levied by the Association against the Lot and Owner. Charges shall be deemed to include but not be limited to: maintenance or other services furnished by the Association for the benefit of an Owner; damages; fines; and any other sums other than assessments which are referred to as Charges in the Governing Documents.

B. Who is Liable for Charges. The Owner of each Lot, regardless of how title was acquired, is liable for all Charges coming due while he is the Owner. Multiple Owners are jointly and severally liable. Except as provided in Section 5.11.E below, whenever title to a Lot is transferred for any reason, the transferee is jointly and severally liable with the transferor for all unpaid Charges against the transferor, regardless of when incurred, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee.

C. Application of Payments; Failure to Pay; Late Fees; Interest. Any Charges paid on or before sixty (60) days after the date due as specified in the notice of Charge from the Association shall not bear interest, but all Charges not so paid shall bear interest at the highest rate of interest per annum which may be lawfully charged, calculated from the date due until paid. In addition, any Charges or installments not paid on or before sixty (60) days after the date due shall result in the imposition of a late fee equal to in an amount as provided or in the Rules and Regulations, the higher of \$25.00 or five (5%) percent of the late payment. All payments on account shall be applied in the following order irrespective of any restrictive endorsement, designation or instruction placed on or accompanying any payment: To interest, late fees, costs and attorneys'/paralegals' fees, and annual and/or special

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assessments first due and owing. If payment is made by check which fails to clear, then the Owner shall be considered not to have made payment.

D. Liens. The Association has a lien on each Lot securing payment of past due Charges, including interest, late fees and attorneys' and paralegal fees and costs incurred by the Association incident to the collection of the Charges or enforcement of the lien, whether before, during or after a lien foreclosure suit or other lawsuit. The lien may result in the recording of a claim of lien in the public records of the County, stating the legal description of the Lot, the name of the record Owner, the Charges past due and the due dates. The lien is in effect until barred by law. Upon full payment of all sums secured by the claim of lien, the person making the payment is entitled to a satisfaction of the lien.

E. Priority of Lien.

1. Rights of Certain Mortgagees. The Association's lien for Charges shall be subordinate and inferior to any recorded Institutional Mortgage, unless the Association's claim of lien was recorded before the mortgage, but shall be superior to, and take priority over, any other mortgage regardless of when the mortgage was recorded.

(a) With respect to any such mortgage which has superiority over the Association's claim of lien: When the mortgagee or other purchaser obtains title to the Lot as a result of foreclosure of the mortgage, or a deed in lieu of foreclosure, the acquirer of title, its successors and assigns, shall not be liable for any delinquent Charges due and owing to the Association pertaining to the Lot or chargeable to the former Owner of the Lot which became due prior to the acquisition of title as a result of foreclosure or a deed in lieu of foreclosure. These unpaid Charges shall be deemed to be a common expense collectible from all of the Owners, including such acquirer of title, and his successors and assigns.

2. Leases. Any lease of a Lot shall be subordinate and



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inferior to any claim of lien of the Association, regardless of when the lease was executed.

3. Relation Back. The continuing lien as well as claim of lien of the Association shall relate back to the recording of this Amended and Restated Declaration for purposes of obtaining priority over the holder of any recorded non-first Institutional Mortgage and the record owner of any lien on any Lot other than the recorded first Institutional Mortgage recorded prior to the recording of the Association's claim of lien.

- F. Foreclosure of Lien; Action at Law. The Association may bring an action in its name to foreclose its lien for unpaid Charges in the same manner that mortgages are foreclosed in the State of Florida, and may also bring an action to recover a money judgment for the unpaid Charges without waiving any lien rights, and shall be entitled to recover interest, late fees, and all costs of collection, including court costs and paralegal and attorneys' fees.

5.12 Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, Charges and liens created under this Declaration:

- A. All Properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; except that no Lot shall be exempt which may contain an easement to a third party.
- B. All Common Area exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption.

Notwithstanding any provision in this Section 5.12, no land or improvements devoted to Lot or dwelling use shall be exempt from assessments, Charges or liens, except as provided for in Sections 5.8.A and 5.11.E.1 above.

Section 6. MAINTENANCE, REPAIR AND REPLACEMENT; ASSOCIATION ALTERATIONS. Responsibility for the maintenance, repair, replacement and Association alterations of the Properties shall be as follows:

6.1 Association Maintenance. In addition to other provisions contained elsewhere in this Declaration, the following Properties shall be maintained, repaired and



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replaced by the Association at the expense of the Association, as an item of common expense:

- A. The Lots, limited solely to landscaping services consisting of only mowing, edging and blowing.
- B. All Common Area, the maintenance for which is not assumed by a governmental entity.
- C. Adjacent Property. The Association shall also maintain the vegetation, landscaping and irrigation system, if any, upon areas which are not within the Properties but abut same and are owned by a utility or governmental authority or any other person, so as to enhance the appearance of the Properties.

6.2 Maintenance by Owners. Each Owner is responsible, at his own expense, for the maintenance, repair and replacement of the following Properties:

- A. The entirety of his Lot and Dwelling Structure, except as otherwise provided to be the responsibility of the Association under 6.1.A above.
- B. Each Owner shall also have the following responsibilities/limitations:
 - 1. Each Owner must perform promptly all maintenance, repairs and replacement for which the Owner is responsible, which are necessary to ensure good and quality condition, and/or which if not performed would affect any of the Properties, including any Lot(s) belonging to any other Owner(s).
 - 2. Each Owner shall promptly report to the Association or its agents any defect or need for repair on the Properties for which the Association is responsible for maintaining, repair and replace under this Declaration.
 - 3. No Owner shall make any alteration, addition or improvement to any portion of the Common Area, except as is specifically permitted by this Declaration.
 - 4. No Owner shall do anything which shall adversely affect the safety or soundness of the Common Area; the opinion of the Board of Directors shall control in



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determining whether the safety or soundness of the Common Area is adversely affected.

6.3 Level of Maintenance. The Association is hereby empowered, by and through the Board of Directors, to determine the level of maintenance to be effected by the Owners, subject to any provisions for same in this Declaration.

6.4 Association Alterations. Subject to the provisions of Section 9 below, the following shall apply: The Association shall have the right to make or cause to be made alterations or improvements to the Common Area which are approved by the Board of Directors; provided however, if the cost of same shall exceed 10% of the annual budget including reserves, cumulatively in a budget year, then the alteration or improvement may not be made unless approved or ratified by a majority of the voting interests of all members of the Association. Notwithstanding the foregoing to the contrary, in the event that any alteration or improvement is also necessary or beneficial in the maintenance, repair, replacement or protection of the Common Area or protection of the Owners or Occupants, then such alteration or improvement shall not require the ratification or approval of the Owners as provided for in this Section 6.4.

Section 7. OWNERS' CONSTRUCTION, ALTERATIONS AND IMPROVEMENTS; ARCHITECTURAL CONTROL COMMITTEE. The following applies to the Owners and Occupants, but not to the Association:

7.1 Scope: Review by Architectural Control Committee. No structure (whether part of a residence) fences, walls, exterior lighting, or any other improvement, shall be constructed or allowed upon any Lot; no alteration, addition, changing or remodeling to the exteriors of any Dwelling Structure or other structure on a Lot shall be made; and no landscaping or removal of landscaping shall be added or altered on a Lot (collectively a "Modification"); without the Owner first obtaining the prior written approval of the Architectural Control Committee ("ACC") and fully and strictly complying with this Section 7. This Section 7 shall also apply to when ACC approval is required under Section 8 below. No Owner or Occupant may make any alterations or improvements to the Common Area.

A. Proviso. The installation of antennae and satellite dishes as protected by federal law shall not be subject to approval of the ACC.

7.2 Submission of Plans to the ACC.

A. Preliminary Approval. Prior to any Modification, the Owner must apply for preliminary written approval of the ACC by providing it with a sketch drawing of the proposed Modifications. The preliminary written approval of the ACC



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must be obtained prior to submission of final plans for final approval of the ACC and also prior to submission of plans to the applicable governmental authority for its approval. The ACC has thirty (30) days from the date it receives the sketch drawing, and any fees, within which to approve. In the event approval is not obtained within this time period, then preliminary approval shall be deemed given by the ACC. The ACC is permitted to ask for revisions of preliminary plans within the thirty (30) day time period as it deems necessary. The ACC's preliminary approval shall not obligate the ACC to render final approval as provided for in Section 7.2.B below.

- B. Final Approval. Following the Owner's receipt of preliminary approval by the ACC, the Owner shall apply for written approval of the ACC by providing it with the full plans and specifications of the Modifications showing the nature, kind, shape, height, materials and location of the Modification and the approval of any applicable governing authority, if required by same. So long as the full plans and specifications are substantially the same as the sketch drawing preliminarily approved by the ACC, the ACC is obligated to provide final approval. The ACC shall have a period of thirty (30) days from the date of its receipt of the full plans and specifications and any fees, within which to approve or disapprove. The failure of the ACC to approve or disapprove within this thirty (30) day time period shall constitute an automatic final approval from the ACC. The ACC is permitted to require changes to the full plans and specifications as the ACC may reasonably require.

7.3 Function of the ACC. The ACC shall be a permanent committee of the Association and shall administer and perform the architectural review and control functions of the Association. The ACC shall exercise its best judgment to see that all alterations, improvements, construction and landscaping conform to and harmonize with existing surroundings and structures. The ACC may also assist and advise the Board of Directors of the Association in enforcing the Declaration and in adopting rules, regulations and guidelines, and may from time to time perform such other duties or functions as may be assigned to it by the Board of Directors.

7.4 Composition of the ACC. The ACC shall be composed of three (3) or more persons appointed by the Board of Directors of the Association; the Board may decide that the Board shall act as the ACC. All members of the ACC shall be subject to removal, with or without cause, by the Board of Directors. A majority of the ACC shall constitute a quorum to transact business at any meeting, and the action of a majority of ACC Members present at a meeting at which a quorum is present shall constitute the



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action of the ACC. Any vacancy occurring on the ACC due to the death, resignation or removal of any member thereof shall be filled by the Board of Directors.

7.5 Powers of the ACC. The ACC shall have the following powers:

- A. The ACC may require submission of samples of building materials and colors proposed to be used, and may also require such additional information as may be reasonably necessary to evaluate the proposed construction, alteration or improvement.
- B. To approve or disapprove all plans and specifications.
- C. To promulgate rules and regulations of general application, governing the procedures to be followed by the ACC, including the form and content of applications, plans and specifications to be submitted for approval. The ACC may from time to time adopt architectural guidelines, imposing restrictions in furtherance of the General Plan of Development of the Community, that are not inconsistent with this Declaration.
- D. By any of its members or appointed agents upon reasonable notice and at any reasonable time, to enter and inspect any Lot for compliance with this Section 7 of this Declaration or any other provision in the Declaration under which the ACC has jurisdiction.
- E. To exercise any other powers delegated to it by other provisions of this Declaration and/or by the Board of Directors of the Association.
- F. The ACC may appoint a committee to assist the ACC in its approval process, except that only the ACC has final decision making authority in connection with an application.

7.6 Review Criteria. The ACC may disapprove any plans submitted to it or require modifications to same, for any one or more of the following reasons:

- A. Failure of such plans to comply with any of the protective covenants, conditions and restrictions contained in this Declaration and for architectural guidelines adopted from time to time by the ACC.



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- B. Failure to include information in such plans and/or as requested by the ACC;
- C. Objection to the site plan, exterior design, appearance or materials of any proposed alteration or improvements, including without limitation, color or color scheme, finish, proportion, style or architecture, height, bulk or appropriateness of any proposed alteration or improvement;
- D. Incompatibility of the proposed alteration or improvement with existing improvements.
- E. Failure of the proposed alteration or improvement to comply with any zoning, building, health or other governmental laws, codes, ordinances, rules or regulations;
- F. Any other matter which in the judgment and sole discretion of the ACC would render the proposed alteration or improvement inharmonious or incompatible with the General Plan of Development of the Community.

7.7 Permits and Certificates of Occupancy; Compliance; Completion of Improvements.

- A. After the plans and specifications and plot plans and other data submitted have been approved by the ACC, no alteration, improvement or structure shall be erected, constructed, placed or maintained upon the Lot or Dwelling Structure unless same shall be erected, constructed, placed or maintained in conformity with the plans and specifications and plot plans approved by the ACC. Any alteration, construction or structure which shall be erected, constructed, placed or maintained which is not in conformity with the plans and specifications and plot plans approved by the ACC shall be deemed to have been undertaken without such approval and to be in violation of this Declaration.
- B. Furthermore, no certificate of occupancy (if applicable) shall be issued unless the Owner(s) have complied with this Section 7.
- C. Unless specifically excepted by the ACC, all improvements shall be completed within six (6) months from the date of commencement of the improvement, and must be commenced



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within six (6) months after the ACC renders its approval.

7.8 Records of Meetings. The ACC shall keep minutes and maintain records of all votes taken at ACC meetings. The ACC may also take action without a meeting by unanimous written consent of all members of the ACC.

7.9 No Waiver. The approval of the ACC of plans and specifications submitted for approval, as herein specified, shall not be deemed to be a waiver by the ACC of the right to object to any of the features or elements embodied in such plans and specifications, if and when the same features and elements are embodied in any subsequent plans and specifications submitted for approval for use on other Lots, even if submitted by the same Owner(s) and/or contractor(s).

7.10 Liability for Actions of the ACC. Neither the Board of Directors nor Officers of the Association and/or Master Association, the members of the ACC, nor any person acting on behalf of any of them, shall be liable for any costs or damages incurred by anyone submitting plans for approval, or any other party, due to any mistakes in judgment, negligence or nonfeasance of the ACC in connection with the approval or disapproval of plans. Neither the Board of Directors nor the officers of the Association and/or Master Association, the members of the ACC, nor any person acting on behalf of any of them, shall be responsible for any defects in any plans or specifications, nor for any defects in any alterations or improvements constructed pursuant thereto. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto.

7.11 Variance. The ACC may authorize variances from compliance with the provisions of any architectural standards (not inconsistent with this Declaration) adopted by the ACC, when circumstances such as topography, natural obstructions, hardships, aesthetic, or environmental considerations require. Such variance must be evidenced in writing and approved by a majority of the entire membership of the ACC, which variance must also be approved by the Board of Directors in order for the variance to be effective. If such variances are granted, no violation of this Declaration or the ACC's architectural guidelines shall be deemed to have occurred with respect to the matters for which the variances were granted. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration or architectural guidelines for any purpose except as to the particular Lot and particular provisions of the architectural guidelines, covered by the variance, nor shall it affect, in any way the Owner's obligation to comply with all governmental laws and regulations affecting his or her use of the Lot, including, but not limited to, zoning ordinances and set-back lines imposed by any governmental or municipal authority, nor shall it entitle the Owner or any other Owner to a similar variance in the future.

7.12 Appeal to the Board of Directors. In the event that the ACC disapproves in writing an application in accordance with this Section 7 and other



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procedures adopted by the ACC, the applicant may appeal directly to the Board of Directors. In order for the Board to entertain such an application, the original request to the Board must be received by the Board not more than thirty (30) days following the final decision of the ACC. The ACC shall be notified by the Board of Directors of all appeals and have the right to present reasons why the request was disapproved or not approved in full. The Board of Directors shall have thirty (30) days following the receipt of the request for appeal to render its written decision. The Board may reverse or modify the ACC decision within its sole discretion.

7.13 Architectural Guidelines. The following constitute architectural guidelines for the Community applicable to Owners and Occupants, which are in addition to any other guidelines or restrictions contained elsewhere in this Declaration or in the Master Association Documents. The existence of a guideline or restriction does not obviate the need for ACC approval, which still does exist. The absence of a guideline or restriction does not mean that an alteration or improvement is allowed, but simply that the ACC has discretion on the matter, which may or may not be documented in writing by the ACC in written form or architectural guidelines outside of this Declaration.

- A. Exterior Color of Dwelling Structures. Neither the base nor the trim color of the exterior of a Dwelling Structure shall be changed without prior approval from the ACC.
- B. Fences and Walls. Fences and walls shall be prohibited. However, wood or plastic lattice structures shall be permitted but only on the rear or side of the Dwelling Structure.
- C. Driveways. Neither the driveway color nor style shall be changed.
- D. Screens.
 - 1. Screens over windows and doors shall contain a white frame with charcoal colored mesh.
 - 2. A garage screen shall be permitted only if it is exterior to the garage door and contains a frame. Roll down screens for the garages shall be prohibited.
- E. Hurricane Shutters. All hurricane shutters shall be white in color, except that removable corrugated aluminum panels shall be permitted. Plywood shall be allowed no earlier than one day before a hurricane or tropical storm watch is issued and must be removed no later than 24 hours after the storm danger has passed.
- F. Room Additions. All room additions shall be of a screened



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material on the sides, with the frame to be white in color, with either aluminum or vinyl material.

- G. Pools and Spas. Pools shall be prohibited. A spa shall be permitted, placed on a concrete slab, and hidden from view from the street.
- H. Roof Ventilators. Roof ventilators shall be prohibited.
- I. Ponds. No ponds shall be permitted on any Lots.
- J. Balustrades. Some of the Dwelling Structures were constructed with a white balustrade on the front portion of the Lot. No other balustrades shall be permitted.
- K. Sheds. One moveable shed shall be permitted on a Lot, subject to ACC approval. All sheds shall be hidden from view from the street.
- L. Windows. Reflective material/window tinting is/are permitted on the windows so long as the color is clear, bronze, brown or gray. At no time shall aluminum foil be placed on the inside or the outside of the windows.
- M. Landscaping.
 - 1. Landscaping accent pieces and ornaments, plant borders and hanging plants are permitted so long as they do not interfere with the Association's landscaping maintenance obligation, and with respect to lawn ornaments, same shall be limited to the flowerbeds only.
 - 2. Plant climbers shall be permitted on the side or rear of the Dwelling Structure only.
 - 3. No hedge or shrub planting which obstructs sight lines at elevations between two feet and six feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended.



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The same sight line limitation shall apply on any Lot within ten feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within the above-mentioned limits of intersections unless the foliage line is maintained at or above six feet above the roadway intersection elevation to prevent obstruction of sight lines. The ACC may grant a variance in specific instances in its sole and reasonable discretion.

4. No trees may be removed without the approval of the ACC.
5. No tree may be removed except incident to construction of a Dwelling Structure.

N. Airconditioning/Heating Units. Wall and/or window airconditioning and heating units are prohibited.

O. Solar Panels. Solar panels are permitted only as protected by F.S. 163.04, as amended from time to time.

P. Signs. No signs of any type shall be maintained, kept, or permitted on any of the Properties, including Unit (interior or exterior), or in a vehicle (except as otherwise provided for below), such that they may be viewed from other Lots or the streets.

1. Exceptions. The following shall not violate this Section 7.13.P:

- (a) Official notices of the Association.
- (b) Signs on permitted vehicles under Sections 8.4.B.1, 2, 3 and 4 below.
- (c) Security signs and window stickers.
- (d) One handicap sticker in one window of the Dwelling Structure.
- (e) One "for sale" sign in one window of the Dwelling Structure.



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- Q. Flags. Flags shall be permitted only as allowed by F.S. 720.304(2) and F.S. 720.3075(3), as amended from time to time.
- R. Holiday Decorations. Holiday decorations and lighting shall be permitted on doors, shrubbery, trees or buildings, but only during the particular holiday season and a reasonable time prior to and after then.
- S. Antennae and Satellite Dishes. The only antennae and satellite dishes permitted on any Lot shall be those that are protected by federal law. To the extent an acceptable signal, as recognized by federal law, can be obtained, a satellite dish or antenna shall be installed within the Dwelling Structure. To the extent that an acceptable signal as defined by federal law, cannot be obtained from within the Dwelling Structure, then to the extent that such a signal is possible from the rear of the Dwelling Structure, then the antenna or satellite dish shall be installed to the rear of the Dwelling Structure; otherwise, the installation shall be placed on the Lot in the place least visible from other Dwelling Structures, such that an acceptable signal as defined by federal law can be obtained. All satellite dishes and any antenna not installed on a mast must be screened from view on a Lot by landscaping, the cost of which shall not exceed that recognized by the Federal Communications Commission ("FCC") and any applicable cases or administrative rulings as exist from time to time. Notwithstanding the foregoing to the contrary, in no event shall any restrictions contained in this subsection impair a viewer's ability to receive video programming services prohibited by federal law, and/or impose any unreasonable delay or expense as recognized by such cases and rulings.
- T. Preservation Areas. The General Plan of Development depicts certain preservation areas. Within such preservation areas, there shall be no irrigation, use of insecticides, application of fertilizers or removal of native vegetation.
- U. Wells. Only wells of shallow depth shall be permitted.

(V. SEE AMENDMENT)

7.14 Grandfather Clause. To the extent that any Modification is prohibited by this Declaration but was permitted by the Original Declaration, or otherwise permitted or allowed by the Association, then the Modification shall be grandfathered, but shall not be replaced except with a Modification which conforms with the provisions of this



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Declaration.

Section 8. USE AND OCCUPANCY RESTRICTIONS. The use and occupancy of the Properties shall be in accordance with the following provisions so long as the Community exists:

8.1 Occupancy of Lots; Subdivision.

- A. General. Each Lot shall be occupied by Owners or tenants and their family members and Guests and employees, as a residence and for no other purpose, subject to any other provision in the Governing Documents and in the Rules and Regulations relating to use of the Lot.
- B. Subdivision. No Lot may be subdivided into more than one Lot. Only entire Lots may be sold, leased or otherwise transferred.
- C. Limitation on Occupancy - Number. No Dwelling Structure shall be occupied by that number which exceeds two persons per bedroom, up to a maximum of six persons. The term "bedroom" shall mean a bedroom in the Unit when originally constructed rather than any bedroom which may have been added thereafter. This calculation shall exclude any Guest which may occupy a Unit for less than fifteen days.
- D. Occupancy Limitation - Unrelated Individuals. No more than three unrelated individuals shall be permitted to occupy any Dwelling Structure.

8.2 Age. There is no minimum or maximum age for occupancy.

8.3 Pets and Animals.

SEE AMENDMENT =>

- A. Classifications. No pet or animal shall be permitted on the Properties, except for two dogs or two cats or one of each per Lot; birds in cages permitted by applicable governmental code in reasonable numbers and kept inside of the Dwelling Structure; and fish in tanks kept in the Dwelling Structure. No such pet or animal shall be bred or kept for commercial purposes.
- B. The following shall apply as to permitted pets and animals under this Section 8.3:



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1. Pets shall be walked in areas designated by the Board from time to time.
2. When outside of the Lot, all permitted pets and animals must be accompanied by an attendant who shall have such pet or animal firmly held by collar and leash not longer than six feet. No pet or animal shall be permitted to run at large outside the Dwelling Structure.
3. The Owner/custodian of each animal and pet and/or the individual walking same, shall be required to clean up after the pet/animal.
4. The pet/animal owner and the Owner of the Lot involved shall be strictly liable for damages caused by the pet/animal to the Properties.
5. Any pet/animal owner's privilege to have a pet/animal reside in the Community shall be revoked if the pet/animal shall create a nuisance or shall become a nuisance.

8.4 Vehicles and Parking.

- A. Prohibited Vehicles or Items. This Subsection A lists prohibited vehicles or items ("Prohibited Vehicles"), which are prohibited from being stored or parked anywhere on the Properties outside of the garage between the hours of midnight and 6:00 a.m., unless such vehicle or item is also listed in Subsection B below, in which case it need not be parked or stored inside of the garage during those hours: Trucks, including pick-up trucks, whether or not a camper top exists; agricultural vehicles; dune buggies, swamp buggies and all terrain and off-road vehicles; three-wheel motorized vehicles; any trailer or other device transportable by vehicular towing; semis, tractors or tractor trailers; buses; limousines; travel trailers; commercial vehicles as defined below; vehicles which are an eyesore; motorcycle delivery wagons; campers; recreational vehicles; motor homes or mobile houses; truck mounted campers attached or detached from the truck chassis; motor homes or motor houses; motor vehicles not having any bodies whatsoever, or incomplete bodies; passenger automobiles that have been converted to a different type of motor



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vehicle by replacing the original body or by modifying the exterior of the vehicle; vehicles that are noisy, unsightly or junkers, or which have flat or missing tires; vans and sports utility vehicles, except as otherwise allowed under Subsection B.5 below; and boat and boat trailers; and commercial vehicles; and other such motor vehicles.

B. Exceptions to A above. The following shall not be considered Prohibited Vehicles, subject to other provisions in this Declaration or in the Rules and Regulations of the Association not inconsistent with this Section 8.4.

1. Moving vans for the purpose of loading and unloading, and only during reasonable hours, but not between the hours of midnight and 6:00 a.m.
2. Vehicles, regardless of classification, necessary for the maintenance, care or protection of the Properties, during regular business hours, and only for the time period during which the maintenance, care or protection is being provided.
3. Service and delivery vehicles, servicing the Properties, regardless of classifications, during regular business hours and only for that period of time to render the service or delivery in question.
4. Police and Emergency vehicles.
5. Certain vans and sports utility vehicles which are permitted. A two-axle van or two-axle sports utility vehicle which is not a commercial vehicle as defined below; which contains windows on the rear of the vehicle, on both sides of the vehicle adjacent to the first row of seating, and (if any) also at least one set of windows on each side of the vehicle beyond the windows adjacent to the first row of seating.
6. Special Exceptions. Travel trailers, campers, recreational vehicles, motor homes, mobile houses and homes will be allowed for a maximum of 24 hours, providing that written permission is obtained in advance from the Board of Directors, indicating date and time. The written permission shall be displayed conspicuously in the vehicle at all times. Upon the



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expiration of 24 hours, the vehicle shall be considered a Prohibited Vehicle.

C. Classifications and Definitions.

1. Except as otherwise provided as to certain vans and sports utility vehicles under Subsection B.5 above, a State registration or title classification shall have no bearing on determination of the classifications under this Section 8.4.
2. A "commercial vehicle" shall mean any motor vehicle which has an outward appearance of being used in connection with business, (e.g., the vehicle displays work equipment to view and/or is commercially lettered or contains a commercial or business logo). Actual use of the vehicle shall yield to its outward appearance. A vehicle with a covered sign or logo shall still be considered to be a commercial vehicle. A vehicle with a removable sign or logo shall not, with the sign/logo removed, be considered to be a commercial vehicle unless it meets the definition of "commercial vehicle" even without the sign or logo.

D. The following additional regulations apply:

1. No repair (including changing of oil) of a vehicle shall be made within the Community except for minor repairs necessary to permit removal of a vehicle. However, washing, waxing, or the changing of tires of a vehicle are permitted.
2. No motor vehicle which is of the type of vehicle which is unregistrable or which is not currently registered and licensed shall be driven or operated on any of the Properties at any time for any reason.
3. No motor vehicle, including moving vans, shall be parked at any time on the grass/swales within the Community (except for landscaping equipment at the direction of the Board of Directors).
4. Except where safety dictates otherwise, horns shall not be used or blown while a vehicle is parked, standing in



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or driving through parking areas. Racing engines and loud exhausts shall be prohibited.

5. No vehicle may be parked such that it blocks any sidewalk, except where otherwise necessary by moving vans and only for loading and unloading.
 6. All vehicles must appear in working order; no vehicles on blocks, jacks or ramps, shall be permitted.
 7. All speed limit and traffic directional signage shall be observed.
 8. *SEE AMENDMENT*
- E. Remedy of Towing. If upon the Association's compliance with Section 715.07, Florida Statutes and any applicable County Ordinances, as amended from time to time, an offending vehicle owner does not remove a Prohibited Vehicle or improperly parked vehicle from the Community, the Association shall have the option and right to have the vehicle towed away at the vehicle owner's expense. Towing shall not be the exclusive remedy or a condition precedent for the Association.

8.5 Nuisances, Ordinances and Laws. No Owner, Occupant or Guest shall use any of the Properties, or permit same to be used, in any manner which is unreasonably disturbing, detrimental or a nuisance to the Owner(s), Occupant(s) and Guest(s) of other Lot(s), or which would not be consistent with the maintenance of the highest standards for a first class residential development, nor permit the Properties to be used in a disorderly or unlawful way, nor which will produce an insurance risk for the Association or other Owners or Occupants. The use of each Lot shall be consistent with existing ordinances and laws and the Governing Documents, and Occupants shall at all times conduct themselves in a peaceful and orderly manner. No inflammables except propane for grills and fuel for lawn mowers in federally approved containers shall be stored anywhere on the Properties. Televisions, radios and musical instruments may only be used at such times and at such volume so as not to create a disturbance for other Owners and Residents. A hazardous substance as defined by applicable law shall not be used or stored on any Lot, except that a minimal amount required for normal household purposes may be used or stored in keeping with applicable law.

8.6 No Business Activity. No business or commercial activity or enterprise of any kind whatsoever shall be erected, maintained, operated, carried on, permitted or conducted on the Properties, including Lots; provided, however that the following shall not violate this Section 8.6:



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- A. Any business which qualifies as a home occupation under the applicable zoning code shall be permitted. However, a day care or child care facility or operation (regardless of age) shall not be permitted, irrespective of whether same is a home occupation.
- B. The practice of leasing Lots.
- C. The business of operating the Association.

8.7 Trash and Garbage Storage. No rubbish, trash, garbage or other waste material shall be kept or permitted in the Community except in containers with lids on, located in appropriate areas or in plastic bags, and no odor shall be permitted to arise therefrom, so as to render the Community or any portion thereof, unsanitary, unsightly, offensive or detrimental to any other properties in the vicinity thereof, or to its Occupants. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk material or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Community except within an enclosed structure appropriately hidden from view from the streets, as approved by the ACC. Only trash containers with lids on shall be permitted to be placed and only in the front of any Dwelling Structure abutting the Common Area or the streets; same shall be permitted no earlier than sundown on the day before the scheduled day for garage/trash removal, and same must be removed on the day of removal and placed on the Owners' Lot hidden from view from the streets.

8.8 Solicitation. No business solicitation whatsoever shall be permitted in the Community. This shall not preclude an owner from inviting a person or firm to enter the Community for the purpose of contracting business with the Owner.

8.9 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon a Lot.

8.10 Insurance Rates. No owner shall do anything in the Common Area or on the Lots which will increase the rate of insurance of any property insured by the Association without the approval of the Board of Directors, nor shall any Owner or Occupant do or keep anything within the Community which would result in the cancellation of insurance on any property insured by the Association or which would be in violation of any law.

8.11 Laundry. No portion of the Common Area shall be used for the drying or hanging of laundry. No portion of a Lot shall be used for the drying or hanging of laundry unless such laundry is adequately hidden from public view, so that the laundry is not visible from any Lot, Common Area or from outside of the Community; the foregoing



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is subject to F.S. 163.04, as amended from time to time.

8.12 Garages. Garages shall be used for the storage of vehicles and other uses typical of garages, but no garage may be used as living space or divided into any rooms.

SECTION 9. LEASING OF LOTS AND DWELLING STRUCTURES. An Owner may lease only his entire Lot and Dwelling Structure, and then only in accordance with the Declaration, after receiving the approval of the Association as provided for in this Section 9. Reference to "leasing" in this Section 9 shall also include rental. Prior approval is also required in connection with any lease renewal and in connection with any change in occupancy under, during or along with a lease. A lease or rental shall exist if any form of consideration (whether for services, employment or otherwise) is paid or exchanged. Any lease, lease renewal or change in occupancy under, during or along with a lease is referred to in this Section 9 as a "Transfer".

9.1 Procedures.

- A. Notice by the Owner. An Owner shall give to the Board of Directors or its designee written notice of an intended Transfer at least ten (10) days prior to the proposed Transfer and occupancy thereunder, together with the name and address of the proposed lessee(s), an executed copy of the proposed lease, and such other information as the Board may reasonably require. The Board may require the personal appearance of any lessee(s), and his/her spouse and any other intended occupants, as a condition of approval.
- B. Approval. After the required notice and all information, transfer fee, and appearances requested have been provided, the Board shall approve or disapprove the proposed Transfer within ten (10) days. If the Board neither approves nor disapproves within this time period, such failure to act shall be deemed the equivalent of approval, and on demand the Board shall issue a letter of approval to the Owner.
- C. Disapproval. A proposed Transfer shall be disapproved only if a majority of the whole Board so votes, and in such case the Transfer shall not be made. Appropriate grounds for disapproval shall include, but not be limited to, any one or more of the following:
1. The Owner is delinquent in the payment of assessments at the time the application is considered,



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and the Owner does not bring the delinquency current (with any interest, late fees, costs and attorneys' and paralegal fees also due and owing) within a time frame required by the Board of Directors;

2. The Owner has a history of leasing his/her Lot to troublesome lessees and/or refusing to control or accept responsibility for the occupancy of his Lot;
3. The real estate company or agent handling the leasing transaction on behalf of the Owner has a history of screening lessee applicants inadequately or recommending undesirable lessees;
4. The application on its face appears to indicate that the person seeking approval and/or intended occupants intend(s) to conduct himself/themselves in a manner inconsistent with and/or are unable to comply with the Governing Documents and/or Rules and Regulations of the Association;
5. The prospective lessee or other intended occupants have been convicted of a felony involving violence to persons or property, or a felony demonstrating dishonesty or moral turpitude;
6. The prospective lessee or other intended occupants have a history of conduct which evidences disregard for the rights and property of others;
7. The lessee or other intended occupants, during previous occupancy, have evidenced an attitude or disregard for the Governing Documents and/or Rules and Regulations of the Association;
8. The lessee(s) or intended occupants have failed to provide the information or appearances required to process the application in a timely manner, or provided false information during the application process; or the required transfer fee is not paid; or
9. The Owner fails to give proper notice of his intention to lease his Lot to the Board of Directors.



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Notice of disapproval shall be sent or delivered in writing to the Lot Owner.

- D. Failure to Give Notice or Obtain Approval. If proper notice is not given, the Board at its election may approve or disapprove the lease.
- E. Unapproved Transfers. Any Transfer which is not approved, or which is disapproved pursuant to the terms of this Declaration, shall be void unless subsequently approved in writing by the Board of Directors. The Association shall have the right to remove any occupant(s) and personal belongings by injunctive relief or by other means provided in this Declaration should this Section 9 be violated.
- F. Application Form. The Association is vested with the authority to prescribe an application form such as may require specific personal, social, financial, and other data relating to the intended lessee(s), and occupants, as may reasonably be required by the Association in order to enable the Association to reasonably investigate the intended lessee(s), and occupants within the time limits extended to the Association for that purpose as set forth in this Section 9. The application shall be complete and submitted to the Association along with and as an integral part of the notice of intended Transfer.
- G. Transfer Fee. The Board of Directors is empowered to charge a fee in connection with and as a condition for the approvals set forth in this Section 9, in an amount as set by the Board of Directors from time to time, but not to exceed \$100.00 per adult applicant. Husband and wife and dependent children shall be considered as one applicant.
- H. Certain Exceptions. Section 9.1 shall not apply to a transfer to or purchase by an Institutional Mortgagee that acquires its title as the result of owning a mortgage upon the Lot concerned, and this shall be so whether the title is acquired by deed from the mortgagor, his successors or assigns, or through foreclosure proceedings; nor shall such Section 9.1 apply to a transfer, sale or lease by an Institutional Mortgagee that so acquires its title. Nor shall such Section require the approval of a purchaser who acquires title to a Lot at a duly advertised public sale with open bidding provided by law, such as but not limited to execution sale, foreclosure sale, judicial



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sale or tax sale.

1. Proviso. This Section 9.1.H shall not be construed to exempt the foregoing from compliance or permit the foregoing to be in noncompliance with all other provisions of the Governing Documents and Rules and Regulations of the Association; nor shall the grantee (other than another Institutional Mortgagee) of the foregoing be exempt from the requirements of this Section 9.1.

9.2 Contents in Lease Agreement. Every lease as of the Effective Date of this Declaration, whether oral or written shall contain, and if it does not contain, shall automatically be deemed to contain, the following:

- A. The lessee and all occupants shall abide by all provisions of the Governing Documents and reasonable Rules and Regulations, as amended from time to time, the failure of which shall constitute a material default and breach of the lease.
- B. The parties recognize that the Association, as agent for the landlord/Owner, has the power to evict the tenants and occupants under Chapter 83, Florida Statutes, for violations of the Governing Documents and reasonable Rules and Regulations, as amended from time to time.

(12) 9.3 Minimum and Maximum Terms. The minimum term for any lease shall be ~~three (3)~~ consecutive months and the maximum term for any lease shall be twelve (12) consecutive months.

9.4 Subleasing; Renting Rooms. Subleasing of a Lot and Dwelling Structure shall be absolutely prohibited. Furthermore, no rooms shall be rented in any Dwelling Structure. The intention is that only entire Lots and Dwelling Structures may be rented, and Lots and Dwelling Structures may not be sublet.

SECTION 10. OWNERSHIP AND TRANSFER OF OWNERSHIP OF LOTS AND DWELLING STRUCTURES. In order to maintain a community of congenial, financially responsible residents with the objectives of protecting the value of the Lots, inhibiting transiency, and facilitating the development of a stable, quiet community and peace of mind for all residents, the transfer of the ownership of a Lot and Dwelling Structure shall be subject to the following provisions so long as the Community exists, which provisions each Owner of a Lot agrees to observe.



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10.1 Forms of Ownership.

- A. General. No corporation, company or business named partnership shall be permitted to own a Lot in the Community, except as follows: Ownership by a corporation shall be permitted only if a majority of the directors of the corporate Owner shall reside in the Dwelling Structure as their primary residence. Ownership by a company shall be permitted only if a majority of the directors or company members shall reside in the Dwelling Structure as their primary residence. Ownership by a business named partnership shall be permitted only if a majority of the partners shall reside in the Dwelling Structure as their primary residence. To the extent that a Unit may be owned by a corporation, company or business named partnership as limited and permitted by this Section 10.1.A, then the Association must approve of a person who shall be viewed as the primary occupant who shall also be responsible for compliance with all provisions in the Governing Documents and Rules and Regulations.
- B. Life Estate. A Lot may be subject to a life estate, either by operation of law or by a voluntary conveyance. In that event, the life tenant shall be the only Association member from such Lot, and the occupancy of the Lot shall be as if the life tenant was the only Owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy rights unless separately approved by the Association. The life tenant shall be liable for all assessments and Charges against the Lot. Any consent or approval required of Association members may be given by the life tenant alone, and the consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as coowners.

10.2 Transfer of Ownership of Lots. The Association shall not have the right of approval and disapproval with respect to the transfer of ownership of Lots. However, each Owner shall notify the Association of any change in ownership of a Lot as soon as possible thereafter. The Board of Directors is empowered to adopt a form to be utilized by the Owners for providing such notification, which shall include such reasonable information as required by the Board of Directors.

Section 11. INSURANCE AND CASUALTY. The insurance which will be carried upon the Properties in the Community shall be governed by the following provisions:



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11.1 By the Association.

A. Duty and Authority to Obtain. The Board of Directors shall obtain and keep in force the insurance coverage which it is required to carry under the Governing Documents, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The name of the insured shall be the Association and the Owners without naming them, and their mortgagees, as their interests shall appear.

1. The cost of insurance premiums and other incidental expenses incurred by the Association in administering and carrying out the provisions of this Section 9.1 shall be a common expense of the Association; notwithstanding the foregoing, any increase in the premium occasioned by misuse, occupancy or abandonment of any Dwelling Structure or of the Common Area by particular Owner(s) shall be levied against a Lot and Owner and paid by such Owner(s) as a Charge and collectible as Charges are collected pursuant to the Declaration.
2. Premiums upon insurance policies may be financed in the manner as the Board of Directors deems appropriate.
3. The Association is hereby permitted to purchase insurance policies which contain deductibles.
4. The Board of Directors of the Association is empowered to adjust claims under any policies of insurance carried by the Association.
5. All policies shall be issued by a company authorized to do business in Florida.

B. Required Coverage. The Association shall maintain adequate insurance covering the Common Area in an amount determined annually by the Board of Directors, but in no event less than 100% of the then current replacement cost value.

C. Description of Coverage. A detailed summary of the coverage included in the master policies, and copies of the master policies, shall be available for inspection by Owners or their



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authorized representatives upon request.

- D. Waiver of Subrogation. If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogation as to any claim against the Association, Owners, or their respective servants, agents or guests, except for any claim based upon gross negligence evidencing reckless, willful and wanton disregard for life or property.
- E. Share of Insurance Proceeds. All insurance policies obtained by the Association shall provide that all proceeds covering property losses shall be paid to the Association.
- F. Reconstruction and Repair After Casualty. Any damage or destruction to the Common Area shall be repaired or reconstructed by the Association, substantially in accordance with the plans and specifications for the original improvements; or if such plans and specifications are lost or unavailable, then in accordance with plans and specifications approved by the Board of Directors of the Association. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair of the damaged Common Area, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, the Association shall levy a Special Assessment against all Owners in sufficient amounts to provide funds for the payment of such costs. Notwithstanding the foregoing to the contrary, repair of damage or destruction to the Common Area is optional if this Declaration is terminated as provided for in Section 15 below.

11.2 By the Owners.

- A. Each Owner hereby covenants to maintain full casualty insurance coverage on all portions of his Lot, inclusive of the entire Dwelling Structure. Such coverage shall include loss by damage by fire and all other hazards covered by a standard extended coverage endorsement; all perils covered by the standard "all risk" endorsement; and an Inflation Guard Endorsement where obtainable. The Owners may, but shall not be required to, procure title insurance and insurance upon their personal property and for their personal liability and living



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expense. All policies shall be issued by a company authorized to do business in Florida.

- B. All insurance purchased by Owners under this Section 11.2 shall be so purchased at their own expense.
- C. All damage or destruction to any Lot improvement shall be repaired or reconstructed with improvements of at least similar size and type, and subject to the approval of the ACC; the provisions of Section 7 shall apply here. Construction shall proceed diligently and continuously. Although it is impossible to anticipate all problems which may arise from a casualty, the intent is to try to assure that the overall quality of the General Plan of Development is maintained by requiring damaged Dwelling Structures to be rebuilt, repaired or replaced and that unsightly and dangerous conditions on the Lots are remedied as soon as possible.

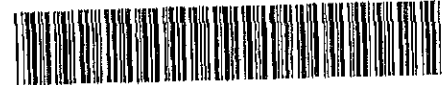
Section 12. CONDEMNATION OR EMINENT DOMAIN. The circumstances of a taking of Common Area by the power of eminent domain and/or of any taking of Common Area or other Properties by way of condemnation, eminent domain or inverse condemnation, shall be dealt with in such reasonable manner as determined to be appropriate under the circumstances by two-thirds of the entire Board of Directors. For the purposes of this Section 12, each Owner shall be considered as having sufficient property rights in and to the Common Area so as to be able to institute a claim directly against the taking authority.

Section 13. COMPLIANCE AND DEFAULT; REMEDIES.

13.1 Duty to Comply; Right to Sue.

- A. Each Owner, his tenants, guests, and invitees, and the Association, shall be governed by and shall comply with the provisions of applicable statutes, the Governing Documents, and the Rules and Regulations, and architectural guidelines of the ACC. Actions for damages, for injunctive relief, and/or for declaratory relief, for failure to comply may be brought by the Association or by an Owner against:

1. The Association;
2. An Owner;
3. Tenants, guests or invitees occupying a Lot and



Dwelling Structure or using the Common Area; or

4. Any member of the Board of Directors who willfully and knowingly fails to comply with the foregoing.

13.2 Association Notice to Correct. Should any Owner fail to properly discharge his/her maintenance, repair and replacement obligations as provided for in Section 6 and in Section 11.2 above; or shall fail to make and pay for maintenance, repair or replacement as provided for in Section 6 above; and in the judgment of the Board of Directors, same shall result in a condition of unsightliness tending to adversely affect the value or enjoyment of neighboring Owners and Occupants; or should any Owner violate Section 7 above; or should the neglect or the willful misconduct of Owner(s) cause damage which then requires maintenance, repair or replacement by the Association; then the following shall apply:

- A. The Board may (but shall not be required to) provide notice of such condition(s) to the proper Owner(s), demanding that the condition(s) be corrected within a reasonable time, but not longer than the time period referenced in the Rules and Regulations of the Association. In the event that the Owner does not rectify the condition at the end of this period, then the Association shall be entitled to contract to have the necessary work performed (and entry onto the Lot), whereupon the cost of this work (and in addition thereto, a reasonable administrative fee which is permitted to be charged by the Association over and above same) shall become a Charge against the Owner and Lot concerned (solely or proportionately as the Board shall determine) and collectible as Charges are collected under this Declaration.
- B. This Section 13.2 is in addition to the rights of entry onto the Lots and Dwelling Structures as provided for in Sections 13.3 and 13.4 below.
- C. Provisos. Notwithstanding any provision to the contrary in this Section 13.2, the following shall apply:
 1. The notice period may be shortened or eliminated if the Board determines that an emergency exists to effect correction.
 2. The notice period shall not apply to Section 13.3 below.

13.3 Negligence; Damage Caused by Condition in Lot. Each Owner shall



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be liable to the Association for the expenses of any maintenance, repair or replacement of Common Area made necessary by his act or negligence, or by that of any member of his family or his guests, invitees, agents, or lessees. If any condition, defect or malfunction existing within a Lot or Dwelling Structure, whether caused by the Owner's negligence or otherwise, shall cause damage to the Common Area or to other Lots and Dwelling Structures, the Owner of the offending Lot shall be liable to the person or entity responsible for repairing the damaged areas, for all costs of repair or replacement not paid by insurance. If the Association effects correction, the cost shall be levied as a Charge against the Owner and Lot and collectible as Charges are collected under this Declaration; the Association may, but is not required to, provide notice to the Owner prior to effecting correction.

13.4 Association's Access. The Association, by and through the Board of Directors, officers, or the agents or employees of the Association, has an irrevocable right of access onto the Lots and Dwelling Structures only for the purposes of inspection, maintenance, repair, replacement, alteration and improvement of those Properties for which it is obligated to maintain, repair and replace.

13.5 Owners Responsible. Owners are strictly responsible to ensure that their family members, guests, agents, lessees, invitees, etc. or any occupants of their Lots comply with the Governing Documents and Rules and Regulations of the Board of Directors and architectural guidelines of the ACC; as amended from time to time; and the statutes which apply; and as such, are responsible and liable to the Association for violations of same by their family members, guests, agents, lessees, servants, etc. or any occupants of their Lots.

13.6 Waiver of Rights. The failure of the Association or of an Association member to enforce any right, provision, covenant or condition which may be granted by the Governing Documents shall not constitute a waiver of the right of the Association or member to enforce such right, provision, covenant or condition in the future.

13.7 Costs and Attorneys' and Paralegal Fees. In any legal proceeding arising out of an alleged failure of an Owner (for himself/herself or for his/her family members, guests, agents, tenants and invitees or any occupants of the Lot), or the Association or the Master Association, or any tenants, guests or invitees occupying a Lot or using the common area, to comply with the Governing Documents or Rules or Regulations as amended from time to time, or corporate statute, the prevailing party shall be entitled to recover from the losing party, costs and attorneys' and paralegals' fees, including those incurred in appellate proceedings.

13.8 No Election of Remedies. All rights, remedies and privileges granted to the Association or Owners under any terms, provisions, covenants, or conditions of the Governing Documents or Rules and Regulations of the Association, or law, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to

constitute an election of remedies, nor shall it preclude the party from exercising such other additional rights, remedies, or privileges as may be granted by the Governing Documents, Rules and Regulations of the Association, or at law or in equity.

Section 14. RIGHTS OF MORTGAGEES. The following rights shall apply to certain or all mortgagees, in addition to those rights contained elsewhere in the Governing Documents:

14.1 Association Lien Foreclosure. Certain mortgagees have certain rights in connection with Association lien foreclosure actions, as provided for in Sections 5.8.A and 5.11.E.1 above.

14.2 Redemption. If proceedings are instituted to foreclose any mortgage or lien on any Lot, the Association, on behalf of one or more Owners and with the permission of the mortgagee, may redeem the mortgage or lien for the amount due thereon and be thereby subrogated to all of the mortgagee's or lienor's rights of action, or the Association may purchase the Lot at the foreclosure sale. Any mortgagee shall have the right to accept title to the Lot in settlement and satisfaction of the mortgage or to foreclose its mortgage in accordance with its terms, and to bid upon the Lot at the foreclosure sale. If the Association or any of its members redeem the mortgage or cure the default, it or they shall have a lien against the Lot for all sums expended in connection therewith, and shall have the same rights to collect such sums as in the case of a past due assessment.

14.3 Right to Inspect Books. The Association shall make available to Institutional Mortgagees requesting same current copies of the Governing Documents and Rules and Regulations of the Association, and the official records of the Association which by an applicable statute, are inspectable by the Owners. "Available" shall mean ready for inspection, upon written request, during normal business hours, or under other reasonable circumstances. Photocopies shall be provided at the expense of the person requesting them.

14.4 Financial Statement. Any Institutional Mortgagee is entitled, upon written request, to a copy of the financial statement of the Association for the immediately preceding fiscal year.

14.5 Lender's Notices. Upon written request to the Association, any Institutional Mortgagee shall be entitled to timely written notice of:

- A. Any 60-day or longer delinquency in the payment of assessments or charges owed by the Owner of any Lot on which the mortgagee holds a mortgage; and any 30-day or longer default of any other provision in the Governing Documents by an Owner of any Lot on which the mortgagee holds a mortgage.



- B. A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.
- C. Any condemnation or casualty loss that affects a material portion of the Community or any Lot.
- D. Any proposed action that requires the consent of a specified percentage of mortgage holders.
- E. Outstanding assessments unpaid with respect to the Lot on which the Institutional Mortgagee holds a mortgage.
- F. Notice of Association meetings.

Section 15. TERMINATION. The Community may be terminated in the following manner:

15.1 Agreement. The Community may be terminated but only after approval in writing by the Owners of eighty (80%) percent of the Lots and by the record owners of mortgages on the Lots whose Owners are consenting in writing.

15.2 General Provisions. Upon termination, the former Owners shall become the Owners, as tenants in common, of all Common Area and the assets of the Association. The shares of such tenants in common shall be equal. The mortgagee or lienor of an Owner, shall have a mortgage or lien solely and exclusively upon the share of such tenant in common in and to the lands and other properties and rights which he may receive by reason of the termination. The termination of the Community shall be evidenced by a certificate of the Association executed by its president and secretary certifying as to facts effecting the termination. Termination shall become effective when that certificate is recorded in the Public Records of the County. Under no circumstances shall termination of the Declaration result in increased maintenance responsibilities to a governmental authority.

15.3 New Community. The termination of the Community does not bar creation of another community affecting all or any portion of the same property, except that in the new community all Dwelling Structures shall continue to be used solely as single family residences.

15.4 Last Board. The members of the last Board of Directors shall continue to have the powers granted in this Declaration and in the Articles of Incorporation and By-Laws for the purpose of winding up the affairs of the Association, notwithstanding the fact that the Association itself may be dissolved upon a termination.

15.5 Provisions Survive Termination. The provisions of this Section 15 shall be deemed covenants running with the land, and shall survive the termination of the



Community until all matters covered by those provisions have been completed.

15.6 Priority - Conflict. In the event that there is any conflict between this Section 15 and Section 16 below, the language contained in this Section 15 shall control and govern.

Section 16. AMENDMENT OF DECLARATION.

16.1 Proposal. Amendments to this Declaration may be proposed by the Board of Directors or by written petition signed by the Owners of twenty (20%) percent of the Lots.

16.2 Procedure; Notice and Format. In the event that any amendment is proposed by the Board of Directors, then the Board may propose the amendment to be considered at the annual or a special members' meeting. In the event that any amendment was proposed by written petition of the members, then the Board shall have forty (40) days from its receipt of the petition or ten (10) days after its next regular meeting, whichever time period is greater, to certify that the proper number of owners executed the petition. Once certified, the Board shall call a meeting of the members to vote on the amendments within sixty (60) days after certification of the signatures. An amendment may be considered at the annual or a special members' meeting. The full text of any amendment to the Declaration shall be included in the notice of the members' meeting of which a proposed amendment is considered by the Owners members.

16.3 Vote Required. Except as otherwise provided by Florida law, or by specific provision of this Declaration, this Declaration may be amended by concurrence of not less than a majority of the entire Board of Directors and not less than a majority of the voting interests of all members of the Association. If the amendments were proposed by a written petition signed by the Owners pursuant to Section 16.1 above, then the concurrence of the Board of Directors shall not be required.

16.4 Certificate; Recording; Effective Date. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration. The certificate shall on the first page state the book and page of the public records where the Declaration is recorded. The amendment shall be effective when the certificate and copy of the amendment, and any joinders and consents required, are recorded in the public records of the County.

16.5 Provisos.

1. No amendment shall affect or interfere with vested rights previously acquired by a Lot or Owners, except as may be permitted by F.S. 720.306(1)(a) as amended from time to time.
2. Any amendment which would affect the surface water





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management system, including the water management portions of the common area, must have the prior written joinder and consent of the Sandy Pines Master Association, Inc., to the extent that same is in existence and operating at the relevant time.

Section 17. MISCELLANEOUS PROVISIONS:

17.1 Severability. The invalidity or unenforceability in whole or in part of any covenant or restriction or any section, subsection, sentence, clause, phrase or word or other provision of this Declaration, or any exhibit attached thereto, shall not affect the remaining portions thereof.

17.2 Priorities in Case of Conflict. In the event of conflict between or among the provisions of any of the following, the order of priorities shall be from highest priority to lowest:

- A. The Homeowners' Association statute.
- B. The Corporate Act.
- C. Other Florida Statutes which apply.
- D. This Declaration.
- E. The Articles of Incorporation.
- F. The By-Laws.
- G. The Rules and Regulations of the Board of Directors and ACC, and architectural guidelines adopted by the ACC.

17.3 Interpretation. The Board of Directors is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be binding upon all parties (other than the Master Association) unless wholly unreasonable.

17.4 Invalidity. In the event any court shall hereafter determine that any provisions of this Declaration as originally drafted, or as amended, violates the rule against perpetuities or any other rules of law because of the duration of the period involved, the period specified in the Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rules of law, and for such purpose measuring lives shall be that of the (original) incorporator(s) of the Association.

17.5 Captions. The captions in this Declaration and in the Articles of Incorporation and By-Laws attached hereto are inserted only as a matter of convenience

and for ease of reference and in no way define or limit any provision in the Governing Documents.

17.6 Gender: Plurality. 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 or no genders.

17.7 Owners' Affirmative Duty. All Owners are charged with the affirmative duty to keep the Association notified, in writing, of his/her mailing addresses, as they change from time to time, including a second address for emergency in the event of a catastrophic event. The Owner shall also notify the Association of the name and address of any mortgagee holding a mortgage on his/her lot. The Association shall be permitted to rely on information supplied by Owners in writing.

17.8 Covenant Running with the Land. All provisions of the Governing Documents shall be perpetual and be construed to be covenants running with the Properties in the Community, and all of the provisions of the Governing Documents shall be binding upon and enure to the benefit of subsequent owner(s) of Properties within the Community, and their respective heirs, personal representatives, successors and assigns. None of the provisions contained in the Governing Documents are intended to create, nor shall be construed as creating, any rights in and for the benefit of the general public.

17.9 Duration. This Declaration, as amended from time to time, shall run and bind the Properties until _____, at which time the Declaration, as amended, shall automatically be renewed for successive periods of ten (10) years, unless and until terminated as provided in Section 16 above.

SECTION 18. EFFECTIVE DATES. The Effective Date of the provisions of this Amended and Restated Declaration with exhibits, including Articles of Incorporation and By-Laws, shall be the date on which this Declaration with Exhibits, including Articles of Incorporation and By-Laws, is recorded in the Public Records of the County; provided however, that to the extent that any provision in this Declaration contains a use restriction or easement which is in effect the same or similar to that contained in the Original Declaration or any amendment to the Original Declaration, then the Effective Date of such use restriction is the date of recording of the Original Declaration or amendment, as applicable; and further provided however, that if an earlier Effective Date is referenced in this Declaration, then that earlier date shall control as the Effective Date.

CERTIFICATE OF ADOPTION OF AMENDED AND RESTATED DECLARATION

THE UNDERSIGNED, being the duly elected and acting president and secretary of **BERMUDA WALK PROPERTY OWNERS' ASSOCIATION, INC.**, hereby certifies that the foregoing was approved by not less than a majority of the entire membership of the Board of Directors, which was obtained at a meeting on Sept 5, 2002, called for the purpose, with quorum present; and was approved by a majority of the voting



EXHIBIT "A"



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PROPERTY DESCRIPTION

All property lying and being in the Plat entitled Port Malabar Unit Fifty-Nine, a subdivision according to the plat thereof, as recorded in Plat Book 32, Page 78 of the Public Records of Brevard County.

RST

PREPARED BY AND RETURN TO:
JAY STEVEN LEVINE, P.A.
2500 North Military Trail, Suite 490
Boca Raton, Florida 33431
(561) 999-9925

**CERTIFICATE OF AMENDMENT TO THE AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS FOR BERMUDA WALK**

WHEREAS, the original Declaration of Covenants and Restrictions for Bermuda Walk was recorded in Official Record Book 2707, at Page 1561, Public Records of Brevard County, Florida, and was amended in its entirety by that Amended and Restated Declaration of Covenants and Restrictions for Bermuda Walk as recorded in Official Record Book 4742, at Page 2242, Public Records of Brevard County, Florida;

WHEREAS, Section 16.3 of the Declaration provides that the Declaration may be amended by the approval of not less than a majority of the membership of the Board of Directors and by not less than a majority of the voting interests of all members of the Association;

WHEREAS, on December 20, 2006, not less than a majority of the entire membership of the Board of Directors did approve of the amendments to Declaration in the particulars as set forth in Exhibit "1" to this Declaration;

WHEREAS, on November 2, 2006, not less than a majority of the voting interests of the owners did approve of amendments to the Declaration in the particulars as set forth in Exhibit "1" to this Declaration;

NOW, THEREFORE, the Declaration shall be amended in the particulars as stated in Exhibit "1" attached hereto; these amendments shall run with the real property known as Bermuda Walk, and shall be binding on all parties having any right, title, or interest in the said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof; and except as otherwise amended hereby, the Declaration shall remain unchanged and in full force and effect.

CERTIFICATE OF ADOPTION OF AMENDMENTS

I HEREBY CERTIFY that the attached amendments were duly adopted as amendments to the Declaration and the required percentage approval of the Board of Directors and membership was obtained.

DATED this 7 day of February, 2007.

WITNESSES:

E. Harvey
Print: E. Harvey

BERMUDA WALK PROPERTY OWNERS' ASSOCIATION, INC.

By: Shelby J. Hernley
President
Print Name: Shelby J. Hernley

~~Y. Erwin~~
Print: YVETTE ERWIN

STATE OF FLORIDA)
) ss:
COUNTY OF BREVARD)

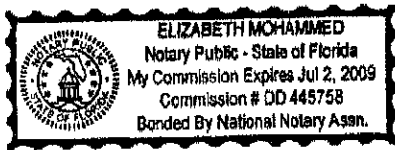
I HEREBY CERTIFY that on the 7 day of February, 2007 before me personally appeared Shelby J. Hernley as President of **BERMUDA WALK PROPERTY OWNERS' ASSOCIATION, INC.** who is personally known to me and who did not take an oath and who executed the aforesaid Certification as his/her free act and deed as such duly authorized officer; and that the official seal of the Corporation is duly affixed and the instrument is the act and deed of the Corporation.

WITNESS my signature and official seal, in the County of Brevard, State of Florida, the day and year last aforesaid.

[SEAL]

NOTARY PUBLIC:

Sign: Elizabeth Mohammed



PROPOSED AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS FOR BERMUDA WALK

As used herein the following shall apply:

A. Words in the text which are lined through with hyphens (---) indicate deletions from the present text.

B. Words in the text which are underlined indicate additions to the present text.

1. A new Section 7.13.V shall be added to the Amended and Restated Declaration and shall read as follows:

"B. Roofs. Except as otherwise provided for in this Section 7.13.V, all roofs shall contain white concrete tiles as prevailing within Bermuda Walk. In the event of a roof replacement, the roof must be compliant with all hurricane code standards in force at the particular time. Notwithstanding the foregoing to the contrary, in the event of a casualty, and roof replacement is mandated by the applicable building codes, then the Owner shall be permitted, with the prior written approval of the ACC, to install a replacement metal aluminum roof, only white in color, if and only if the compliant white concrete tiles are unavailable for delivery within the industry within six (6) months from the date that the Owner and roofing contractor execute a roof replacement agreement. The Owner shall provide written proof from the roofing contractor that white concrete tile is unavailable within the six (6) month period, in order to avail himself or herself of the metal aluminum roof installation."

2. Article 8.3.A of the Amended and Restated Declaration shall be amended to read as follows:

"8.3 Pets and Animals.

- A. Classifications and Other Requirements. No pet or animal shall be permitted on the Properties, except for ~~two~~ one (1) dogs or one (1) or two cats or one of each per Lot; birds in cages permitted by applicable governmental code in reasonable numbers and kept inside of the Dwelling Structure; and fish in tanks kept in the Dwelling Structure. No such pet or animal shall be bred or kept for commercial purposes. Notwithstanding the foregoing to the contrary, no Rottweilers, American Pit Bull Terriers, American Staffordshire Terriers, Staffordshire Bull Terriers or any dog which conforms to a pit bull breed or which exhibits the physical characteristics of these breeds

shall be permitted. In a situation where there is more than one dog or a prohibited breed, the number of dogs in excess of one and the prohibited breed of dog shall be grandfathered, which grandfather status will be lost when any noncomplying dog dies or is otherwise replaced or removed. The owners of all dogs, whether existing or otherwise, must provide the Association with a current Brevard County dog license and written then-current proof of rabies and distemper vaccinations and proof of same as future vaccinations are given."

3. **A new Section 8.4.D.8 will be added to the Declaration and shall read as follows:**

"8. Permanent occupants of a Dwelling Structure containing a single driveway shall not be entitled to park more than two (2) vehicles total for all permanent occupants at any one time within Bermuda Walk, and permanent occupants a Dwelling Structure containing a double driveway shall not be entitled to park more than three (3) vehicles total for all permanent occupants at any one time within Bermuda Walk, and in either case, the permanent occupants of a Dwelling Structure shall not be permitted to park more than one (1) vehicle total for all permanent occupants at any one time in the streets."

4. **Article 9.3 of the Amended and Restated Declaration shall be amended to read as follows:**

"9.3 Minimum and Maximum Terms. The minimum term for any lease shall be three ~~(3)~~ twelve (12) consecutive months and the maximum term for any lease shall be twelve (12) consecutive months."