

DECLARATION OF COVENANTS AND RESTRICTIONS FOR
RIVERWALK

(Additions shown by "underlining",
deletions shown by "~~strikeout~~")

THIS DECLARATION is made on this 9th day of July, 1985, by RIVER TRAILS, LTD., a Florida limited partnership (hereinafter referred to as "Developer").

RECITALS:

A. Developer is the owner of the real property described in Exhibit "A" of this Declaration and the appurtenances thereto.

B. Developer desires to create a community containing residential townhouse buildings, parking areas, roadways, recreational facilities, open spaces and other facilities on the real property described in Exhibit "A".

C. Developer desires to provide for the preservation and enhancement of the property values and amenities in the community which it will create and for the maintenance of The Properties and improvements and to accomplish that purpose Developer desires to subject the real property described in Exhibit "A" to the covenants, restrictions, easements, charges and liens hereinafter set forth for the benefit of the property and each owner thereof, including the Owners of Units. (The terms "Owner" and "Unit" are defined in Article 1.)

D. Developer has deemed it desirable for the efficient preservation of the values and amenities in the community to create an entity to which will be delegated and assigned the powers, rights and duties of: (a) owning, maintaining and administering the Common Areas (as defined in Article 1) of the community; (b) administering and enforcing the covenants and restrictions created by this instrument, including those relating to architectural control; (c) collecting and disbursing the assessments and charges established by this instrument; and (d) promoting the recreation , health, safety and welfare of the residents of the community.

E. Developer has caused RIVERWALK HOMEOWNERS ASSOCIATION, INC. to be formed as a non-profit corporation under the laws of the state of Florida for the purpose of accepting and assuming the aforesaid powers, rights and duties and performing the aforesaid functions.

DECLARATION:

The Developer declares that the real property described in Exhibit "A" of this Declaration is and shall be held, transferred, sold, conveyed, demised and occupied

subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE 1 DEFINITIONS

The following words when used in this Declaration and all its exhibits (unless the context otherwise requires) shall have the following meanings or definitions:

1.1 “Association” – RIVERWALK HOMEOWNERS ASSOCIATION, INC., a Florida corporation not-for-profit, its successors and assigns.

1.2 “Board” or “Board of Directors” – The Board of Directors of the Association.

1.3 “By-Laws” – The By-Laws of the Association as the same may be amended from time to time.

1.4 “Committed Property” – That Property located within the RIVERWALK Project which has been subjected to the terms and conditions of this Declaration.

1.5 “Common Areas” – All property owned, leased or dedicated to the Association for the use and benefit of the Owners, including, but not limited to, the Recreation Area and Aall of the property described in Exhibit “B,” together with any and all improvements from time to time erected on such property, including without limitation walkways, parking facilities, open spaces, private streets, sidewalks, driveways, street lighting, entrance features, landscaping, swimming pools and other recreational facilities, but excluding any public or private utility installation thereon. If additional real property is brought under the provisions hereof by recorded supplemental declaration pursuant to Article 2, then the Common Areas shall include the portion or portions of the additional real property that may be designated to be Common Areas in the supplemental declaration.

1.6 “Common Expenses” – That portion of the expenditures for maintenance, operation and other services required or authorized to be performed by the Association which are attributable to the Common Areas, including a reasonable allocation of all general operating costs of the Association such as, but not limited to, insurance premiums, legal and accounting fees and office supplies. Common Expenses may include costs associated with bulk agreements between the Association and providers of telecommunications services, such as cable television, satellite television or internet.

1.7 “Declaration” – This Declaration as the same may from time to time be amended or supplemented.

1.8 “Developer” – RIVER TRAILS, LTD., a Florida limited partnership, its successors or assigns.

1.9 “Member” – An owner who is a member of the Association as provided in Paragraph 3.1.

1.10 “Owner” – The record owner, whether one or more persons or entities, of a Unit, but excluding those having such interest merely as security for the performance of an obligation. References in this Declaration or its exhibits to Owner or Member may be used interchangeably. Each Owner shall be a Member and each Member shall be an Owner.

1.11 “The Properties” – All of the real property described in Exhibit “A” hereof, the appurtenances thereto and any additions to the said real property which are subject to this Declaration or which may be brought under the provisions hereof by any supplemental declaration made under and pursuant to the provisions of Article 2 hereof.

1.12 “Recreation Area” – That real property adjacent to The Properties owned by the South Florida Water Management District described in Exhibit “C” to this Declaration on which the Developer shall constructed boat slips, boat ramp, and a boardwalk to be utilized by Owner and their tenants and guests pursuant to the Association Rules and Regulations.

1.13 “RIVERWALK Project” – That real property described in Exhibit “D” to this Declaration, which represents the total amount of land owned by the Developer for the Project and planned for development.

1.14 “Rules and Regulations” – The rules and regulations included in this Declaration and such further or amended rules and regulations as may from time to time be adopted by the Board of Directors.

1.15 “Townhouse Building” – A residential structure erected within The Properties within which are located Units and appurtenances thereto.

~~1.16 “Uncommitted Property” – That portion of RIVERWALK Project owned by the Developer held for future development and not subjected to this Declaration.~~

1.17 16 “Unit” – A residential townhouse unit comprising a part of and situated within a Building. A Townhouse Unit may include certain real property located outside of the building itself, but within the lots depicted on the Plat.

ARTICLE 2

PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO

2.1 Legal Description: The real property which is, and shall be held, transferred, sold, conveyed, demised and occupied subject to this Declaration is located in Palm Beach County, Florida and is more particularly described in Exhibit “A” annexed hereto and made a part hereof, otherwise known as the Committed Property.

~~Developer may from time to time bring additional real property now owned or hereafter acquired by Developer which is contiguous to the real property described in Exhibit "A" hereof (Uncommitted Property) under the provisions hereof by recorded supplemental declarations. Developer shall have the full right and power to submit all or any part of the Uncommitted Property to the provisions of this Declaration and to construct Townhouse Buildings or other structures thereon and otherwise develop such other land as part of the residential community described herein without regard to the fact that such action or actions may alter the relative voting strength of the Members of the Association.~~

~~Nothing herein contained shall obligate the Developer to submit Uncommitted Property to the provisions of this Declaration. The submission of Uncommitted Property to the provisions of this Declaration shall be at the sole discretion of the Developer.~~

2.2 Merger or Consolidation: Upon a merger or consolidation of the Association with any other association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, The Properties, rights and obligations of another association may, by operation of law, be added to The Properties, rights and obligations of the Association or another association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within The Properties together with the covenants and restrictions established upon any other property as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration within The Properties.

2.3 Acquisition of Property: The Association is hereby authorized, when approved by the Board of Directors, to acquire interests in real and personal property, including, but not limited to, Units within the Properties and parcels of land adjoining the Properties, and to mortgage, lease, sell and otherwise encumber, use or dispose of any property so acquired.

ARTICLE 3

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

3.1 Membership: Every person or entity who is a record owner of a fee or undivided fee interest in any Unit located in any Townhouse Building or other structures in The Properties shall be a Member of the Association. Notwithstanding anything else to the contrary set forth in this Paragraph 3.1, any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member of the Association.

3.2 Voting Rights: The Association shall have ~~two classes~~ one class of voting membership:

~~Class A~~— ~~Class A Members~~ which shall be all of the Owners, ~~with the exception of the Developer.~~ Class A Members shall be entitled to one vote for each Unit in which they hold the interest required for membership by Paragraph 3.1. When more than one person holds such interest or interests in any Unit, all such persons shall be Members, and the vote for such shall be exercised by one such Member as specified in the Articles of Incorporation of the Association but in no event shall more than one vote be cast with respect to any such Unit.

~~Class B~~— ~~The Class B Member shall be the Developer. The Class B Member shall be entitled to one vote for each Unit in which it holds the interest required for membership by Paragraph 3.1; provided, however, that notwithstanding any provision to the contrary contained herein, the Developer shall have the right to elect the entire Board of Directors of the Association until one hundred twenty (120) days after the earlier of (a) the sale and conveyance by the Developer of all of the Units located in the Townhouse Buildings within The Properties or (b) the giving of written notice by the Developer to the Association that the Developer waives and relinquishes its right to elect the entire Board of Directors of the Association.~~

3.3 Suspension of Voting Rights: Notwithstanding the provisions hereof, the Association shall have the right to suspend any Member's voting right ~~(other than the right of the Developer)~~ for any period during which any assessment or installment thereof shall remain unpaid for more than thirty (30) days after the due date for the payment thereof or in the manner provided for in Chapter 720, Florida Statutes, as the same may be amended from time to time.

ARTICLE 4

PROPERTY RIGHTS IN AND MAINTENANCE OF THE COMMON AREAS

4.1 Ownership: The Common Areas are owned by the Association. ~~No later than one hundred twenty (120) days after the earlier of (a) the sale and conveyance by the Developer of all of the Units located in the Townhouse Buildings within The Properties or (b) the giving of written notice by the Developer to the Association of the Developer's intention to convey and transfer ownership of the Common Areas to the Association [but in no event later than seven (7) years following the date of the recordation of this Declaration], the Developer, or its successors and assigns, shall convey and transfer the record fee simple title to the Common Area to the Association~~

~~and the Association shall accept such conveyance. The conveyances and transfers provided for in this Paragraph 4.1 may, at the election of the Developer, be made in stages so that such portion or portions of the Common Areas as may be designated by the Developer shall be conveyed and transferred from time to time by the Developer to the Association and accepted by the Association so long as all of the Common Areas shall have been conveyed and transferred to the Association within the applicable time periods. The conveyance(s) and transfer(s) of title shall be by special warranty deed and shall be subject to taxes for the year of conveyance and to mortgages, restrictions, limitations, conditions, reservations and easements of record. Commencing with the date this Declaration is recorded, the Association shall be responsible for the maintenance and administration of the Common Areas in a contiguous and satisfactory manner and for the payment of taxes assessed against the Common Areas and any improvements and personal property thereon accruing from and after the date of the recording of this Declaration. In implementation of the foregoing, such taxes shall be prorated between the Developer and the Association as of the date of such recordation.~~

4.2 Obligations of the Association: The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the management and control of the Common Areas and all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair. The Association shall, at its expense, maintain and administer or cause to be maintained and administered the Common Areas, including but not limited to all grasses, swale areas along rights-of-way, open spaces, parking areas, private streets, sidewalks, street lighting, entrance features, landscaping, swimming pool and other recreational facilities.

~~Notwithstanding any provision to the contrary in this Declaration, the Articles of Incorporation or the By-Laws, when the Association Board of Directors determines that a building roof has passed its serviceable life, the Association is responsible to follow existing building codes and pay for the costs of (1) replacing the roof shingles, using fiberglass, fungus resistant material; (2) install asphalt saturated felt kin-tagged to the deck; and (3) install sheet metal flashing (i.e. drip edge metal, L-flashing at walls valley metal and miscellaneous vents, and plumbing stack leads) where required, or an acceptable alternative to items 1, 2 and 3 as approved by the Board of Directors. The Unit Owners are responsible for the cost of replacing any damage, or unserviceable decking, sheathing, fascia or soffits which must be maintained in a proper state of repair as determined by the Association Board of Directors. The Unit Owners are further responsible to fully repair the roof above their unit in the event any section or portions of the roof is defective or damaged at any time prior to the end of the roof's serviceable life, such as may be the case as a result of (1) the presence of defective fire-retardant plywood or (2) damage resulting from fire, wind, storms, trees, lightning, hail, vandalism, unit owner actions or repairs whether or not they are negligent, where said actions or repairs were performed or contracted by the individual Unit Owner.~~

~~At the time that the Association shall perform roof replacement in the manner defined in this Article 4.2 and 7.3 of this Declaration, the Association shall have the authority, but not the obligation, to perform items of repair or replacement identified in this Article 4.2 and Article 7.3 of the Declaration as unit owner's responsibilities, with the cost for such repair and replacement being the responsibility of the unit owner. Said cost shall be deemed an individual assessment and shall be collectible in the manner provided for the collection of assessments in this Declaration.~~

The Association shall also be responsible for replacing the roofs in accordance with the provisions of Article 7.3. The roof replacement as required by this sub-section shall be performed not more than 15 years from the date of the original construction and installation of the roofs and thereafter said roof replacement shall be performed at the end of the serviceable life of the roofs every twenty (20) years or when the roof reaches the end of its useful life, whichever occurs last.

The Association shall also be responsible for painting the buildings as more fully described in Article 7.3.

~~Notwithstanding any provisions to the contrary in this Declaration, the Articles of Incorporation or the Bylaws, when a building is deemed by the Association Board of Directors to require painting, the Association shall be responsible to pay the cost to pressure clean all surfaces to be painted, caulk and paint the building including all exterior (1) wood surfaces, (2) fences, (3) front door and frame, (4) railings including the metal railing on balconies and the front gate, (5) screen enclosure frames and (6) all wood trim. The Association shall not be responsible for painting patio deck surfaces in the front or rear of a unit which painting will be the responsibility of the individual Unit Owner. Prior to the scheduled painting of a building, the Unit Owner is responsible for the cost to treat any un-primed wood for termites, repair and caulk and damaged wood, framing, etc. and use a primer paint to cover any unpainted surfaces.~~

4.3 Owners' Easements of Enjoyment: Subject to the limitations and provisions hereof, every Owner shall have a right and easement of use and enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with title to every Unit.

4.4 Members' Easements Pertaining to the Common Areas: Each Member of the Association and each tenant, guest and invitee of such Member shall have a permanent and perpetual easement for ingress and egress for pedestrian and vehicular traffic over and across the walkways, private streets, sidewalks and driveways from time to time laid out on the Common Areas for use in common with all other Members, their tenants, guests and invitees. The portion of the Common Areas not used, from time to time, for walkways, private streets, sidewalks, and/or driveways shall be for the common use and enjoyment of the Members of the Association and each Member shall have a permanent and perpetual easement for the use of such portion of such lands as common open space in such manner as may be regulated by the Association. The

easements provided in this paragraph 4.4 shall be appurtenant to and pass with the title to each Unit. The Members' rights of enjoyment and use of the Common Areas and easements are subject to the following:

- 4.4.1 The right and duty of the Association to levy assessments against each Unit located in Townhouse Buildings within The Properties for the purpose of maintaining the Common Areas in compliance with the provisions of this Declaration and with any restrictions on the plat or plats of The Properties from time to time recorded.
- 4.4.2 The right of the Association to suspend the voting rights of a Member and right of a Member to use the Common Areas (except the private streets, sidewalks and driveways from time to time located on the Common Areas) for any period during which any assessment against his Unit remains unpaid, and for a period not to exceed sixty (60) days for any infraction or violation of the provisions of this Declaration, the Rules and Regulations, or any of the other governing documents of the Association. ~~of its lawfully adopted and published Rules and Regulations.~~
- 4.4.3 The rights of the Association to adopt and enforce rules and regulations governing the use of the Common Areas and all facilities at any time situated thereon.
- 4.4.4 The right of the Owner for the time being of the Common Areas to mortgage the said Areas for the purpose of the improvement, repair or restoration thereof.
- 4.4.5 The right of the ~~Developer or the~~ Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and upon such conditions as may be agreed to by the Members, ~~provided, however, that no such dedication or transfer by the Association shall be effective unless approved by the Developer so long as the Developer owns at least one (1) Unit within The Properties.~~

4.5 Certain Members' Rights to Use Additional Common Area: If additional real property is brought under the provisions hereof by recorded supplemental declaration pursuant to Article 2, then and in such event every Owner of a Unit located in the Townhouse Building(s) constructed upon such additional real property, and each tenant, guest and invitee of such Owner, shall have the right to use and enjoy such additional Common Area located upon such additional real property as shall be designated for their use and enjoyment by such supplemental declaration. Every Owner of a Unit constructed upon additional real property which is brought under the provisions hereof by recorded supplemental declaration shall have the right to use and enjoy any Common Area previously subject to the terms of this Declaration, whether as

originally filed or as subsequently supplemented. Every Owner of a Unit subject to the terms of this Declaration whether as originally filed or as subsequently supplemented shall have the right to use and enjoy any Common Area submitted to the terms hereof by supplemental declaration. The rights to use and enjoy Common Areas shall be subject to the rights described in Paragraphs 4.4.1; 4.4.2; 4.4.3; 4.4.4 and 4.4.5 above.

4.6 Utility Easements: Public utilities and cable television and security may be installed underground in the Common Areas and below Units when necessary for the service of The Properties, but all use of utility easements shall be in accordance with the applicable provisions of this Declaration.

4.7 Public Easements: Fire, police, health, sanitation, water, and other public service personnel and vehicles shall have a perpetual, non-exclusive easement for ingress and egress over and across the Common Areas and the exteriors of Units.

4.8 Easement for Unintentional and Non-Negligent Encroachments: If a Townhouse Building or any other building or improvement shall encroach upon any portion of the Common Areas or upon an easement by reason of original construction or by the non-purposeful or non-negligent act of ~~Developer~~ or any other owner of such building or improvement, then an easement for such encroachment shall exist so long as the encroachment exists.

4.9 Additional Easements: ~~The Developer (during any period in which the Developer has any ownership interest in The Properties) and the Association shall each~~ have the right to grant such additional electric, telephone, gas, sprinkler, irrigation, cable television or other utility easements, and to relocate any existing utility easement in any portion of The Properties and to grant access easements and to relocate any existing access easements in any portion of The Properties as the ~~Developer or the Association~~ shall deem necessary or desirable, for the proper operation and maintenance of The Properties, or any portion thereof, or for the general health or welfare of the Owners or for the purpose of carrying out any provisions of this Declaration; provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the use of the Units for dwelling purposes.

4.10 Delegation of Use: Any Member, subject only to the Association's right to suspend use rights as elsewhere described, may, unless such use rights have been suspended, delegate his common right to the use and enjoyment of the Common Area to the members of his family and to his guests, subject to such general rules and regulations as may be established from time to time by the Association. The foregoing delegation shall not be deemed to exclude the Member from the use and enjoyment of the Common Area.

4.11 Liability and Property Damage Insurance for Common Areas: The Association shall obtain comprehensive general business liability and property damage insurance covering all of the Common Areas insuring the Association and the Members as its and their interest appears in such amendments and providing such coverage as

~~the Board of Directors may determine from time to time. In the event of any loss or damage to any portion of the Common Areas, the Association is unconditionally obligated to restore or replace the damaged property to its previous condition. With regard to the carport structures which are constructed over existing underground sewer easements granted to the LOXAHATCHEE RIVER ENVIRONMENTAL CONTROL DISTRICT ("ENCON"), in the event ENCON requires the removal of said carport structures in connection with its repair or maintenance activities within said easement, then the Association, within five (5) days of receiving written notice from ENCON, shall cause the carport structures to be removed to allow for said repair or maintenance work. All costs of dismantling and reinstalling the carport structures shall be borne by the Association. In the event the Association fails after receiving the required notice by ENCON to remove the carport structures within the five (5) day period, then ENCON shall have the right to dismantle and remove the carport structures and the cost and expense of doing so shall be borne by the Association. In the event of an emergency as determined in the sole discretion of ENCON, ENCON shall have the right to immediately dismantle and remove the carport structures without any notice to the Association and the cost and expense of doing so shall be borne by the Association. The Association hereby indemnifies and holds ENCON harmless for any claims or liabilities suffered by ENCON in connection with the carport structures. These provisions regarding carport structures shall not be amended without the express written consent of ENCON.~~

In addition, the Association may, but is not obligated, to obtain a property damage insurance policy covering the buildings containing the Units, which policy shall provide coverage for all improvements constituting the buildings containing the units, excluding all Owner personal property, as well as floor, wall and ceiling coverings, electrical fixtures, appliances, water heaters, water filters, built-in cabinets and countertops, and window treatments, and all other personal property, upgrades or fixtures within the boundaries of the Unit. The property damage insurance policy shall insure the improvements in an amount to be determined by the Board of Directors and shall cover loss or damage by fire, storm, flood, or other hazards covered by a standard extended coverage endorsement and such other risks as may, from time to time, be customarily covered with respect to buildings similar in construction, location and use. The premiums for insurance policies purchased by the Association shall be paid for by the Association and charged as a Common Expense.

4.12 Maintenance of Common Areas: The Association shall at all times maintain in good repair, and shall replace as often as necessary, any and all improvements situated on the Common Areas, ~~(as construction is completed by Developer)~~, including, but not limited to, all recreational facilities, landscaping, sprinkler pipes and systems, paving, drainage structures, walkways, parking facilities, private streets, sidewalks, driveways, street lighting fixtures, except public utilities, all such work to be done as ordered by the Board of Directors acting on a majority vote of the Board. Maintenance of the street lighting fixtures shall include the fixtures within the Common Areas and shall further extend to payment for electricity consumed in the illumination of such lights. All work pursuant to this Paragraph and all expenses hereunder shall be

paid for by the Association through assessments imposed in accordance with Article 6 hereof. Such assessments shall be against all Units equally; provided, however, that the cost of any maintenance, repair or replacement caused by negligent conduct of a Member or by the failure of a Member to comply with lawfully adopted Rules and Regulations shall be levied as a special assessment against such Member. No Owner may waive or otherwise escape liability for the assessments for such maintenance by non-use of the Common Areas or abandonment of his right to use the Common Areas. The Association, its successors and assigns, shall have a perpetual, non-exclusive easement for ingress and egress over, upon and across all portions of The Properties and to excavate thereon in connection with the maintenance of sprinkler pipes and systems to the extent necessary for the performance of the work to be performed pursuant to this Paragraph; provided, however, that the party causing any such excavations restores disturbed areas to the condition thereof immediately prior to such excavations.

~~4.12~~ 4.13 **Town of Jupiter Easements:** With regard to the carport structures which are constructed over existing underground water easements granted to the TOWN OF JUPITER ("Town"), in the event Town (or such other governmental agency or entity having jurisdiction) requires the removal of said carport structures in connection with its repair or maintenance activities within said easement, then the Association, within five (5) days of receiving written notice from Town, shall cause the carport structures to be removed to allow for said repair or maintenance work. All costs of dismantling and reinstalling the carport structures shall be borne by the Association. In the event the Association fails after receiving the required notice by Town to remove the carport structures within the five (5) day period, then Town shall have the right to dismantle and remove the carport structures and the cost and expense of doing so shall be borne by the Association. In the event of an emergency as determined in the sole discretion of Town, Town shall have the right to immediately dismantle and remove the carport structures without any notice to the Association and the cost and expense of doing so shall be borne by the Association. The Association hereby indemnifies and holds Town harmless for any claims or liabilities by Town in connection with the carport structures and any damage caused to the water mains located within the Town easement caused by said carport structures. These provisions regarding carport structures shall not be amended without the express written consent of Town.

~~4.13~~ 4.14 **Electric Meters:** In the event a screen enclosure is erected on the rear of any Unit, then the Unit Owner of that Unit shall make certain that the electric meter is accessible to employees of Florida Power and Light Company or the applicable utility at all times for meter reading as well as emergency and safety purposes. In connection with the foregoing, Unit Owners shall keep their screen doors unlocked to provide access to the utility meters. Florida Power and Light and its employees shall not be held liable for any claims or damages in connection with the employees' use of the screened porch area for servicing, reading, removing or otherwise repairing said electric meters unless caused by the willful misconduct or gross negligence of Florida Power and Light Company and/or its employees.

4.13 4.15 Maintenance of Carport Structures. The cost of maintenance of carports, including but not limited to painting, repairing, and replacing carports when damaged beyond repair; is the responsibility of the Unit Owner. All carport maintenance shall be performed, as necessary, by the Association and actual costs billed back to the all unit owners sharing said carport. Costs billed back in this manner will be divided equally among Unit owners sharing said carport unless said damage resulted from the negligent or intentional acts of a Unit Owner or Tenant or the family members, guests, invitees or licensees of the Unit Owner or Tenant. When repairs are caused by such negligent or intentional acts, the owner(s) of the Unit where the person causing the damage lives or is visiting shall be responsible for the cost of repairs. Such cost of repair shall be levied as a special assessment against the Unit owner by the Board of Directors and shall be collectable in the same manner as all other assessments including the placement of a lien against the Unit.

The Association may construct carports upon the approval of a majority of the Board of Directors and the written authorization of a majority of the Unit Owners of the Building that will have the opportunity to benefit from the use of the carport. Such carport construction will be conducted by the Association with the cost of such construction assessed equally among all affected Unit Owners of the Building that will benefit from the carport.

~~Carport Structures/Easements: With regard to the carport structures which may be constructed over existing easements granted to utilities or governmental agencies ("Grantees"), in the event Grantees require the removal of said carport structures in connection with their repair or maintenance activities within said easements, then the Association, within five (5) days of receiving written notice from any of the Grantees, shall cause the carport structures to be removed to allow for said repair or maintenance work. All costs of dismantling and reinstalling the carport structures shall be borne by the Association. In the event the Association fails after receiving the required notice to remove the carport structures within the five (5) day period, then the Grantees shall have the right to dismantle and remove the carport structures and the cost and expense of doing so shall be borne by the Association. In the event of an emergency as determined in the sole discretion of the Grantees, the Grantees shall have the right to immediately dismantle and remove the carport structures without any notice to the Association and the cost and expense of doing so shall be borne by the Association.~~

ARTICLE 5

PROPERTY RIGHTS IN AND MAINTENANCE OF RECREATION AREAS

5.1 Ownership: Fee simple title to the Recreation Area is vested in the South Florida Water Management District (the "District"). Any docks, ramps, boardwalks or other improvements constructed by the Developer for use by the Association, Owners and their tenants and guests are constructed pursuant to a permit or permits issued by the District which may be cancelled or withdrawn by the District. Accordingly all rights

of Owners, and the Association and the Developer to the Recreation Area is are subject to the continuing validity of District permits.

5.2 Obligations of the Association: The Association, subject to the rights of the Owners and the District set forth in this Declaration, shall be responsible for the management and control of the Recreation Area and all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair. The Association shall, at its expense, maintain and administer or cause to be maintained and administered the Recreation Area, including but not limited to all grasses, swale areas along rights-of-way, open spaces, benches, boardwalks, docks, sidewalks, lighting, entrance features, landscaping, and other facilities, without regard to whether title to the said property is vested in ~~the Developer~~, the Association, the District or some other entity.

5.3 Owners' Easements of Enjoyment: Subject to the limitations and provisions hereof, every Owner shall have a right and easement of use and enjoyment in and to the Recreation Area which shall be appurtenant to and shall pass with title to every Unit. The Members' rights of enjoyment and use of the Recreation Area are subject to the following:

5.3.1 The right and duty of the Association to levy assessments against each Unit located in Townhouse Buildings within The Properties for the purpose of maintaining the Recreation Area in compliance with the provisions of this Declaration and with any restrictions on the plat or plats of The Properties from time to time recorded.

5.3.2 The right of the Association to suspend the voting rights of a Member and right of a Member to use the Recreation Area for any period during which any assessment against his Unit remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its lawfully adopted and published Rules and Regulations.

5.3.3 The rights of the Association to adopt and enforce rules and regulations governing the use of the Recreation Area and all facilities at any time situated thereon.

5.3.4 Any and all rights of the District to the Recreation Area.

5.3.5 Notwithstanding any other provision of this Declaration, the Board of Directors may enter into agreements to rent or sell to an Owner the exclusive right to use a space in the boat yard or to transfer the right to use such spaces on such other terms as the Board may determine to be necessary and appropriate. However, no less than forty-five (45) boat storage spaces shall always remain available for lease. At such time as only forty-five (45) spaces remain, no further

sales of spaces may be made by the Board unless and until additional space becomes available. No space in the boat yard may be used by any person other than an Owner or an approved tenant, and any such right to use a space in the boat yard shall terminate automatically upon the expiration of an approved tenant's lease or the transfer of title to the Unit by the Owner. In the event a space in the Boat storage yard is rented or sold, the purchaser must be an owner and the renter must be either an Owner or approved tenant of an Owner. Maintenance fees may be charged pursuant to a schedule developed by the Board of Directors, but may not exceed his or her pro-rata share and shall be calculated by taking the total cost of maintaining the Boat storage yard and dividing said cost by the number of available storage spaces.

5.3.6 As regards the boat storage facility, the Board shall afford priority in requests for boat storage spaces to Owners who reside in their Units for all or a portion of the year, with second priority treatment going to tenants occupying Units under approved leases, and the third priority going to absentee Owners who do not reside in their Units. The assignment of boat storage spaces will be conditioned upon the execution of such lease, assignment and/or license agreements as the Board of Directors may determine necessary and appropriate and upon payment of such fees as the Board may set forth the right to use a boat storage space and boat ramp, which fees may not exceed the cost of maintenance, repair and other operational expenses related to the boat yard.

5.3.7 The use of the boat yard shall be subject to such terms and conditions as the Board determines to be appropriate.

5.3.7.1 Application for Boat Storage. All applicants must provide the Board of Directors a copy of their current boat title, boat registration, trailer registration, and such other documents as the Board may reasonably require, along with a completed application form and / or Boat Storage Agreement and any applicable fees or deposits. The Board may require that this information be re-submitted from time to time, but not less than once per year, to ensure that the boat title and all registrations remain current. Applicants will be considered on a first come, first served basis, within the various categories outlined in Article 5.3.6 of this Declaration.

5.3.7.2 Term. A Boat Storage Agreement ("Agreement") shall be perpetual unless terminated as provided herein.

Shorter use periods may be granted upon request and approval of the Board of Directors.

5.3.7.3

Re-assignment of space. The Board of Directors, in its sole and absolute discretion, may re-assign a space as it deems appropriate from time to time. In addition, boats and trailers may have to be temporarily removed, from the Boat Storage facility for the purpose of repairing or resurfacing the Boat Storage Facility. Notification of such repairs will be provided at least ten (10) days in advance of such work. The Association is not obligated to provide an alternate storage space while such work is being performed. Boats, trailers, and other personal property not removed and which interfere with such work may be towed and /or removed. The cost of towing and storage of such boats, trailers and personal belonging is the responsibility of the person who is leasing the storage space. The Unit Owner shall indemnify and hold the Association harmless as provided in Paragraph 5.3.7.4(x) below.

5.3.7.4

Termination. A Boat Storage Agreement may be terminated by a vote of the Board of Directors of the Association. Such reasons may include but are not limited to:

i. the person leasing storage space is more than thirty (30) days delinquent in the payment of the boat storage fee. The Agreement may be terminated even if payment is received after the thirtieth day;

ii. a Unit Owner who is leasing a space or has a tenant leasing a space in the boatyard is delinquent more than thirty (30) days in the payment of any financial obligation to the Association including but not limited to assessments, special assessments, or fines, even if such financial obligations are subsequently paid after the thirtieth day;

iii. a Unit Owner selling his or her unit thereby automatically terminating the Agreement, whether with the Unit Owner or a tenant of the Unit, on the date title to the Unit transfers to the new Owner;

iv. a Unit is foreclosed upon by the Association or a mortgagee, the Agreement, whether with the Unit owner or a tenant of the Unit, terminates on the date that the Certificate of Title is issued;

v. a Unit Owner or tenant leasing a space in the boat storage facility violates any of the provisions of the Rules and Regulations regarding the use of the facility or the docks or any provision of the Agreement; or

vi. if a tenant of a Unit is leasing a storage space and the Unit Owner violates any of the foregoing provisions or loses title to his Unit voluntarily or otherwise, the tenant will lose the right to continue leasing a boat storage space. It shall be the Unit Owner's obligation to notify his tenant of such sale or foreclosure and the termination of his or her tenant's rights under the Agreement. The Unit Owner shall remain responsible and liable which may include reimbursing the tenant for any fee paid or portion thereof, towing and storage expenses, cost for any personal property removed that is discarded or damaged and any key deposit or other deposit which the tenant may have paid to the Association under the Agreement. Neither the tenant nor the Unit Owner shall look to the Association for reimbursement for these sums or other fees, sums or expenses which may be incurred as a result of the termination of the Agreement for any reason and both the Unit Owner and tenant shall hold the Association harmless.

vii. The Unit Owner remains legally and financially responsible to the Association for his or her tenant's failure to remove the boat, trailer other personal property from the assigned space (or other portions of the boat storage area or common areas improperly being used) upon termination.

viii. The foregoing is not meant to be a complete list of reasons for termination. The Board of Directors may, upon proper motion at a Board meeting noticed in accordance with the Bylaws and the Florida Statutes, terminate any Agreement for other causes as the Board may from time to time deem appropriate. Such termination shall be effective upon written notice

sent via certified mail, return receipt requested, to the person(s) leasing the storage space. Such notice shall be sent to the last known address used by the Association for billing purposes and shall constitute written notice of termination even if said certified letter is returned to the Association as unclaimed. All such terminations shall become effective fifteen (15) days after the date the certified termination letter is deposited in the U.S. mail.

ix. All boats, trailers and/or other personal property must be removed by the fifteenth (15th) day after notification has been provided as described in paragraph viii, above. Boats, boat trailers and personal property remaining after the fifteenth (15th) day will be towed or removed in accordance with applicable Florida law and the authority provided by this paragraph without further notification (unless required by law). All personal property will be removed and stored at the Unit owner's expense.

x. The Unit Owner assumes all responsibility and liability for the cost or removal or towing and subsequent storage of boats, trailers and personal property and shall indemnify the Association, its Board of Directors and officers from any resulting liability for damage or destruction of property which may occur, including the removal or towing of the boats, trailers and or other personal property of his tenant who may be leasing a space. Anyone whose Agreement is terminated shall forfeit all fees paid to the Association under the Agreement.

xi. Those terminated may re-apply for boat storage space if they meet the criteria established by the Association, however, their names shall be placed at the bottom of the waiting list.

5.3.7.5

Liability. The Unit Owner or tenant using the storage facility does so with the understanding that the Association is not responsible nor is it liable for any theft, damage or injury to persons or property related to the occupancy and use of the assigned space at the Boat Storage facility or any portion thereof.

REMOVED 5.3.7.6

5.3.8 The Common Area, Recreation Area, or portions of it, as well as the Boat Storage Facility, may be kept locked and the Association may impose deposits and fees in such amounts as the Board of Directors may determine to be appropriate as a prerequisite to the issuance of a key.

5.3.9 The Board of Directors may also adopt reasonable rules and regulations regarding the use of the Common Areas, Recreation Area and the Boat Storage Facility, including, but not limited to, limiting the number of guests which may use the facilities at any one time, a requirement that residents carry identification tags issued by the Association or such other form of identification as the Board determines to be appropriate in order to ensure that the Common Areas, and Recreation Areas are used only by residents of the Riverwalk community and their invited guests. The Board may also impose such deposits and fees as the Board determines to be appropriate in connection with the issuance of identification tags.

5.4 Public Easements: Fire, police, health, sanitation and other public service personnel and vehicles shall have a perpetual, non-exclusive easement for ingress and egress over and across the Common Areas and Recreation Area.

5.5 Delegation of Use: Any Member may delegate his common right to the use and enjoyment of the Common Areas and Recreation Area to the members of his family and to his guests, subject to such general rules and regulations as may be established from time to time by the Association.

5.6 Maintenance of Common Areas and Recreation Area: The Association shall at all times maintain in good repair, and shall replace as often as necessary, any and all improvements situated on the Common Areas and Recreation Area, ~~(as construction is completed by Developer)~~, including, but not limited to, all recreational facilities (docks, boat ramps, etc.), landscaping, sprinkler pipes and systems, paving, drainage structures, walkways, parking facilities, sidewalks, and appurtenances, entrance features and other structures, except public utilities, all such work to be done as ordered by the Board of Directors acting on a majority vote of the Board. All work pursuant to this Paragraph and all expenses hereunder shall be paid for by the Association through assessments imposed in accordance with Article 6 hereof. Such assessments shall be against all Units equally; provided, however, that the cost of any maintenance, repair or replacement caused by negligent conduct of a Member or by the failure of a Member to comply with lawfully adopted Rules and Regulations shall be levied as a special assessment against such Member. No Owner may waive or otherwise escape liability for the assessments for such maintenance by non-use of the Recreation Area or abandonment of his right to use the Recreation Area. The Association, its successors and assigns, shall have a perpetual, non-exclusive

easement for ingress and egress over, upon and across all portions of The Properties and to excavate thereon in connection with the maintenance of sprinkler pipes and systems to the extent necessary for the performance of the work to be performed pursuant to this Paragraph; provided, however, that the party causing any such excavations restores disturbed areas to the condition thereof immediately prior to such excavations. Neither the Association nor any Member shall construct a fuel storage terminal or dispose of any fuel within the Recreation Area. The Association shall not construct a sewage pump out facility within the Recreation Area.

ARTICLE 6

COVENANTS FOR ASSESSMENTS

6.1 Creation of the Lien for Personal Obligation for Assessments: ~~The Developer hereby covenants, and e~~ Each Owner of any Unit by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay to the Association the following: (1) annual general assessments or charges; and (2) special assessments.

All assessments, together with fines, penalties, levies and costs of collection thereof shall be a charge and continuing lien upon the Unit against which such assessments are made. Each such assessment, together with fines, penalties and levies thereon and costs of collection thereof, shall also be the personal obligation of the person who was the Owner of such Unit at the time such assessment fell due. If two or more persons or entities are then the Owner of such Unit, such obligation shall be the joint and several personal obligation of such persons or entities.

6.2 General Assessments: The general assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of The Properties and in particular for (a) the improvement, maintenance, administration and operation of the Common Areas to be improved, maintained, administered and/or operated by the Association pursuant to this Declaration; and (b) the performance of the functions, duties, responsibilities and powers of the Association under and pursuant to this Declaration.

Each Unit within The Properties shall be subject to the assessments provided for under this Declaration at an equal rate or upon an equal basis, ~~subject, however, to the following:~~

~~6.2.1 The initial assessment period shall begin with the date of the recordation of this Declaration and end on December 31, 1987 (the "Initial Assessment Period"). The Developer reserves the right to elect to extend the Initial Assessment Period by giving written notice to the Association prior to the expiration of the Initial Assessment Period of the extended expiration date of such period. During the Initial Assessment Period, the Developer shall fund any~~

~~deficit in Association maintenance or contribute such sums to the Common Expenses of the Association in addition to the total monthly Common Expense assessments paid by all other Owners as may be required for the Association to maintain and to administer the Common Areas as provided for in this Declaration. During the Initial Assessment Period, the term "Owner" as used herein with respect to assessments shall exclude the Developer and shall exclude any persons or entities who lease a Unit back to the Developer for use as a model Unit or sales office. After the Initial Assessment Period, the term "Owner" as used herein with respect to assessments shall include the Developer. Except during the Initial Assessment Period, all Units owned or planned to be constructed by the Developer on The Properties shall be assessed on an equal basis with the Units owned by parties other than the Developer.~~

~~6.2.2 During the Initial Assessment Period each Unit owned by the Developer (including but not limited to Units, if any, used as sales models and/or administrative offices) shall not be assessed as provided herein for so long as such Unit is owned by the Developer. Each such Unit shall become subject to assessment upon (a) the sale and conveyance thereof to an Owner other than the Developer; or~~

~~(b) the expiration of the Initial Assessment Period, whichever shall first occur.~~

By vote of a majority of the Directors, the Board shall fix the annual assessments provided for herein upon the basis provided above. Such assessments shall be sufficient to meet the obligations imposed by this Declaration. The Board shall set the date(s) such assessments and any installments thereof shall become due; provided, however, that in no event shall such assessments or any installments thereof be due more frequently than monthly. Upon the failure of any Owner to pay any one or more installments of any such annual assessment within thirty (30) days after the due date thereof, the Board may declare the entire balance of such annual assessment to be immediately due and payable.

6.3 Special Assessments: In addition to the annual assessments authorized above, the Association may at any time and from time to time levy special assessments for the purpose of funding any cash shortages arising from actual expenses incurred in excess of amounts budgeted therefore or for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, or any one or more of them, including fixtures, personal property and equipment related thereto. Any assessment for capital improvements upon the Common Areas must be authorized or approved by the Developer so long as the Developer owns at least one (1) Unit located in The Properties

~~and by more than fifty percent (50%) of the Owners present and voting, in person or by proxy, at a special meeting of the Association duly called for the purpose of considering such assessment.~~

~~If Uncommitted Property is brought under the provisions hereof by recorded supplemental declaration pursuant to Article 2, then and in such event any assessment for capital improvements upon the Common Area to be erected upon such Uncommitted Property must be authorized or approved by the Developer so long as the Developer owns at least one (1) Unit located in such Townhouse Building(s) or other structures and by more than fifty percent (50%) of the Owners of the Units located in such Townhouse Building(s) or other structure present and voting, in person or by proxy, at a special meeting of such Owners duly called for the purpose of considering such assessment.~~

6.4 Duties of the Board of Directors: The Board of Directors shall fix the amount of the assessment against each Unit at least ten (10) days in advance of the commencement of the assessment period and shall, at that time, prepare a roster of the Units and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Association shall, upon request, furnish to any Owner liable for an assessment a certificate in writing signed by an officer of the Association, setting forth whether such assessment has been paid as to the Unit owned by the Owner making request therefore. Such certificate shall be conclusive evidence of payment of any assessment to the Association therein stated to have been paid.

It shall be the legal duty and responsibility of the Association to enforce payment of the assessments hereunder.

The Association, through the action of its Board of Directors, shall have the power, but not the obligation, to enter into an agreement or agreements from time to time with one or more persons, firms or corporations for management services. The Association shall have all other powers as provided in its Articles of Incorporation.

~~6.5 Collection of Assessment; Effect of Non-Payment of Assessment; The Personal Obligation of the Owner; the Lien; Remedies of the Association: If an assessment is not paid on the date when due, then such assessment shall become delinquent and shall, together with such penalties and interest thereon and the cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Unit against which the same was assessed which shall encumber such Unit in the hands of the Owner, his heirs, devisees, personal representatives, successors or assigns. Any individual who acquires title to a Unit upon the death of an Owner or by operation of law shall be personally liable for unpaid assessments with respect to such Unit. In any voluntary conveyance, the Grantee shall be jointly and severally liable with the Grantor for all unpaid assessments made prior to the time of such voluntary~~

conveyance, without prejudice to the rights of the Grantee to recover from the Grantor the amounts paid by the Grantee therefore.

~~6.6 Effect of Non-Payment of Assessments; Remedies of the Association: Any assessment or installment thereof not paid within thirty (30) days after the due date may upon resolution of the Board be subject to a penalty fee in such amount as may be established from time to time by the Board of Directors. In addition to the foregoing, if an assessment is not paid within thirty (30) days after due date, the assessment, at the discretion of the Board of Directors, may bear interest from the date when due at the highest rate permitted by law. The Association may bring an action at law against the Owner personally obligated to pay the assessment and any penalty or interest and/or may record a claim of lien against the Unit on which the assessment is unpaid, or may foreclose the lien against the Unit on which the assessment is unpaid, in like manner as foreclosure of a mortgage on real property, or pursue one or more of such remedies at the same time or successively, and there shall be added to the amount of such assessment, attorney's fees and costs of preparing and filing the claim of lien and the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest as provided by law and a reasonable attorney's fee to be fixed by the court together with the costs of the action, and the Association shall be entitled to attorney's fees in connection with any appeal of any such action.~~

~~6.7 Subordination of the Lien to Mortgages: The lien of the assessments provided for in this Article 5 shall be subordinate to the lien of any first mortgage in favor of an institutional lender which is recorded prior to the recordation of a claim of lien for unpaid assessments. An institutional lender is defined as either a bank or life insurance company or a federal or state savings and loan association, or a mortgage or real estate investment trust, or a pension and profit sharing fund, or a credit union, or a Massachusetts business trust, or an agency of the United States government, or a lender generally recognized in the community as an institutional lender or the Developer, or assignee, nominee or assignee of the Developer. A mortgagee in possession, a receiver, a purchaser at a foreclosure sale, or a mortgagee that has acquired title by deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or mortgagee shall hold title subject to the liability and lien of any assessment becoming due after such foreclosure or conveyance in lieu of foreclosure but shall acquire title free of any liability or lien of any assessment which became due prior to such foreclosure or conveyance in lieu of foreclosure. Any unpaid assessment which cannot be collected as a lien against any Unit by reason of the provisions of this Paragraph 6.7 shall be deemed to be an assessment divided equally among, payable by, and assessed against all Units, including the Unit as to which the foreclosure (or conveyance in lieu of foreclosure) took place.~~

6.5 Liability for Assessments. An Owner, regardless of how title is acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, shall be liable for all assessments and other charges coming due while that person is the Owner. Except as provided in Section 6.8 below, the Owner shall also be jointly and severally liable with the previous Owner for all unpaid assessments and other charges that came due up to the

time of the transfer of title. This liability is without prejudice to any right the Owner may have to recover from the previous Owner the amounts paid by the Owner. The person acquiring title shall pay the amount owed to the Association within thirty (30) days after transfer of title. Failure to pay the full amount when due shall entitle the Association to record a claim of lien against the Unit and proceed in the same manner as provided herein and in Chapter 720, Florida Statutes, as amended from time to time, for the collection of unpaid assessments. The liability for assessments may not be avoided by waiver of the use or enjoyment of any Common Areas or by the abandonment of the Unit for which the assessments are made or otherwise.

6.6 Default in Payment of Assessments for Common Expenses. Assessments and installments thereof not paid within fifteen (15) days from the date when they are due shall bear interest at the highest lawful rate from the date due until paid. In addition to the above stated interest, the Association shall charge an administrative late fee in an amount not to exceed the highest amount provided for in Chapter 720, Florida Statutes, as same may be amended from time to time, on assessments and installments thereof not paid when due. All partial payments upon account shall be applied in the manner prescribed in Chapter 720, Florida Statutes, as same may be amended from time to time. The Association has a lien on each Unit to secure the payment of assessments. The lien is effective from and shall relate back to the earliest date permitted by law, but in no event later than the date of recording of this Declaration. As to a first mortgagee of record, the lien shall have such priority as may be provided by Chapter 720, Florida Statutes, as same may be amended from time to time. All claims of lien must state the description of the Unit, the name of the record Owner, the name and address of the Association, the amount due and the due dates and must be executed and acknowledged by an officer or authorized agent of the Association. The claim of lien shall secure (whether or not stated therein) all unpaid assessments, which are due at the time a claim of lien is recorded, as well as all regular and special assessments which may be levied or which may accrue subsequent to the recording of the claim of lien and prior to satisfaction of the lien or the issuance of a certificate of title, together with interest, late charges and all reasonable costs and attorney's fees incurred by the Association incident to the collection and foreclosure process. Upon payment in full, the person making the payment is entitled to a satisfaction of the lien. The Association may bring an action in its name to foreclose its lien in the same manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid assessments without waiving any claim of lien. The Association is entitled to recover its reasonable attorney's fees incurred in either a lien foreclosure action or an action to recover a money judgment for unpaid assessments. As an additional right and remedy of the Association, upon default in the payment of assessments as aforesaid, the Association may declare the assessment installments for the remainder of the fiscal year in which a claim of lien has been filed to be accelerated, as provided in Section 6.9 below.

6.7 Assignment of Rents. The Association is hereby granted a lien against any rents derived from the Unit which shall have the same priority as the Association's lien for unpaid assessments against the Unit. Except to the extent limited by Chapter 720, Florida Statutes, as the same may be amended from time to time, the lien on any rentals derived

from the Unit shall be enforceable by the delivery of written notice to the Owner and the tenant demanding the payment of the rents, provided, however, that no such demand may be made unless and until the owner is delinquent in the payment of any assessment or other charge due and payable to the Association by the Owner under this Declaration.

6.8 First Mortgagee. A first mortgagee acquiring title to a Unit as a result of foreclosure of its first mortgage, or by deed in lieu of foreclosure, may not, during the period of its ownership of such parcel, whether or not such parcel is unoccupied, be excused from the payment of some or all of the Common Expenses coming due during the period of such ownership. In addition, the first mortgagee is liable for the share of Common Expenses or assessments or other charges imposed by the Association pertaining to such Unit which became due prior to acquisition of title as a result of the foreclosure or the acceptance of such deed; provided, however, the first mortgagee's liability may be limited to the maximum amount set forth in Chapter 720, Florida Statutes, as same may be amended from time to time. If any unpaid share of Common Expenses or assessments or other charges is extinguished by foreclosure of a superior lien or by a deed in lieu of foreclosure thereof, the unpaid share of Common Expenses or assessments are Common Expenses collectible from all of the Owners, including such acquirer, and such acquirer's successors and assigns.

6.9 Acceleration of Assessment Installments Upon Default. If an Owner shall be in default in the payment of an installment upon an assessment, the Board may accelerate the remaining installments of the assessment applicable for the balance of the current fiscal year upon notice to the Owner, and the then unpaid balance of the assessment shall be due upon the date stated in the notice.

6.10 Set Off. Any funds due and payable by the Association to an Owner under this Declaration, the Articles of Incorporation or the By-Laws, or under Chapter 720, Florida Statutes, shall be subject to a right of set-off for any amounts due and owing to the Association by the Owner under this Declaration, the Articles of Incorporation, the By-Laws, or Chapter 720, Florida Statutes.

6.11 Within fifteen (15) days after the date on which a request for an estoppel certificate is received from an Owner or mortgagee or their designee, the Association shall provide a certificate signed by an officer or authorized agent of the Association identifying all assessments and other monies owed to the Association by the Owner or mortgagee with respect to the Unit, and the Association may charge a fee for the preparation of such certificate, the amount of such fee to be stated on the certificate.

~~6.8~~ 6.12 Exempt Property: The following properties subject to this Declaration are and shall be exempt from the assessments, charges and/or liens created herein; (1) all properties, if any, to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (2) all Common Areas; and (3) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption.

~~6.9~~ 6.13 Annual Budget: By a majority vote of the Directors, the Board shall adopt an annual budget for the subsequent fiscal year, which shall provide for allocation of expenses in such a manner that the obligations imposed by the Declaration will be met.

ARTICLE 7

USE OF PROPERTY

7.1 Protective Covenants: The Properties are subject to the following restrictions and covenants:

7.1.1 Residential Use. All Units shall be used, improved and devoted exclusively for residential use. Nothing herein shall be deemed to prevent the Owner from leasing a Unit, subject to all of the provisions of the Declaration, including but not limited to the requirements of Article 9.4 of the Declaration. ~~provided, however, that the term of any such lease shall be for a period of seven (7) days or more. No Unit Owner shall lease his Unit more than five (5) times per year.~~

~~The use of Units for model homes, sales offices and/or administrative offices shall be permitted for the Developer until the Developer has sold all Units owned by it within The Property.~~

7.1.2 Recreational Facilities on Common Areas. Nothing herein contained shall prevent or restrict the construction and maintenance of recreational facilities, including without limitation, swimming pools and other accessory facilities, upon the Common Areas.

7.1.3 Zoning. Uses which do not conform to Palm Beach County zoning ordinances will not be permitted upon the Common Areas. Any portion of the plat or plats of the Properties containing open spaces may not be vacated in whole or in part unless the entire plat is vacated.

7.1.4 Temporary Buildings. No tents, trailers (other than boat trailers parking in designated spaces), vans, shacks, tanks or temporary or accessory buildings or structures shall be erected or permitted to remain on the Common Areas. However, the foregoing shall not restrict or prevent the construction and maintenance of temporary structures and facilities as are essential or appropriate to the development, construction and improvement of The Properties and to the sale of Units, provided that the same are in compliance with appropriate governmental requirements applicable thereto.

7.1.5 Burial of Pipe and Tanks. No water pipe, sewer pipe, drainage pipe or storage tank shall be installed or maintained on the Common Areas above the surface of the ground, except hoses and movable pipes used for irrigation purposes.

7.1.6 Nuisances. Nothing shall be done on the Common Areas which may be or may become an annoyance or nuisance to the neighborhood. In the event of any question as to what may become a nuisance, such question shall be submitted to the Board of Directors for a decision in writing and its decision shall be final.

No improper, offensive, hazardous or unlawful use shall be made of the Properties or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Properties, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Properties, as elsewhere herein set forth. Notwithstanding the foregoing and any provisions of this Declaration, the Articles of Incorporation or By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this subsection. The Association has the right to cure any violation of any code or regulatory requirement of a governmental agency, whether on the Common Areas or within the Units, which may be enforced in the manner provided for any violation in the manner set forth in this Declaration.

No refuse or unsightly objects shall be allowed to be placed or suffered to remain anywhere on the Common Areas.

7.1.7 Pets

No more than two (2) pets may be maintained in any Unit and only one of the two pets may exceed 50 pounds at maturity. Such pets shall be permitted to occupy any Unit or be permitted on any Common Area or Recreation Area after the effective date of this amendment. (Pets being maintained on the property prior to the effective date of this amendment which exceed such weight limitations shall be grandfathered.)

The Board of Directors may promulgate additional rules and regulations regarding pets from time to time including but not limited to, prohibited breeds, rules regarding registration and demonstrating proof of vaccinations for pets.

All pets permitted on the premises shall be under leash when walked or exercised outside of the Unit on the Common Areas or Recreation Areas or the adjoining land and docks leased from the South Florida Water Management District.

Each unit owner shall be responsible for removal of any pet waste and shall be personally liable for any costs incurred in the repair of damage caused by the pet or a pet owned by a tenant. A photograph or video recording of any unleashed pet or failure to immediately cleanup a pet's waste shall be deemed sufficient grounds to pursue a fine on the offending unit owner.

Pets shall not be permitted to create a nuisance including but not limited to persistent barking or whining or physically attacking other people or animals. Upon consideration by the Board of Directors, any pet deemed a nuisance shall be permanently removed by its owner from the property within fifteen (15) days after receipt (or the date of refusal to accept receipt) of written notification sent via Certified Mail, Return Receipt Requested..

Upon the death or disappearance of any grandfathered pet weighing in excess of 50 pounds, maintained in a Unit prior to the effective date of this amendment, no replacement pet may exceed the 50 pound (at maturity) weight limitation.

~~No trucks or vans if used for commercial purposes, commercial vehicles, mobile homes, motor homes, house trailers, campers and boat trailers (except in designated boat storage areas) shall be permitted to be parked or to be stored at any place on the Properties except service vehicles making a call at a Unit or upon another portion of the Properties. The foregoing restriction shall apply to any vehicle used primarily for business as evidenced by lettering or other insignia on cars, custom vans and converted vans used primarily for family purposes or for pleasure are permitted to be parked on the Properties.~~

~~7.1.7 Boat Parking and Boat Ramp. The use of the boat ramp, boat docks and boat storage spaces, if any shall be determined by the Board of Directors of the Association who may charge a reasonable fee for the use of such facilities by Owners or their tenants. Boating facilities shall be regulated pursuant to the Rules and Regulations adopted by the Board of Directors.~~

~~7.1.8 Walls or Fences. No wall, fence, hedge or similar structure (except for walls, fences, hedges or similar structures constructed by Developer) shall be placed, constructed, erected or permitted on~~

the Common Area except with the express written permission of the Board of Directors.

7.1.9 Drainage. No changes in elevations of property subject to these restrictions shall be made which will cause undue hardship to adjoining property.

7.1.10 Underground Wires. No lines or wires for communication or the transmission of current shall be constructed, placed or permitted to be placed within the Common Areas unless the same shall be protected cables; any of said lines or wires which are not located in buildings shall be constructed or placed and maintained underground.

7.1.11 Parking. The Board is empowered to make and amend rules and regulations which may include, without limitation, restrictions on the types of vehicles which may be parked on the Properties and designating specific areas on the Common Areas for the parking of certain types of vehicles, and with regard to the issuance and display of decals to identify the vehicles of residents, guests, licensees, employees, agents or contractors. No overnight parking is permitted for trailers, storage containers or mobile homes except during initial move in and move out periods No commercial vehicles, defined as vehicles which display commercial logos or markings or which carry tools and equipment which are used in a commercial enterprise and which are visible from the exterior of the vehicle, may be parked on any portion of the Properties at any time, except when making a service call for an Owner or for the Association. No vehicle may be parked or operated on the Properties if it is not licensed to operate on the public roads in this State unless such vehicle is owned and operated by the Association for Association business. Additionally, due to limitations on the number of available parking spaces, no Unit may park more than three (3) vehicles on the Properties on a continuous basis, and the Board may make and amend rules and regulations regarding the number of vehicles permitted on the Properties at any time based upon the number of licensed drivers in the Unit and the types of vehicles to be parked on the Properties. A licensed motorcycle shall not be counted as a vehicle, if the motorcycle is parked in the Unit owner's assigned parking space in such a manner so as to permit the resident of the Unit to park their automobile in the same parking space and not interfere with other vehicular traffic, foot traffic or another adjoining parking space. A motorcycle that does not meet this criteria shall count as one vehicle in determining the vehicle limit for a Unit. To prevent damage to the common areas and resident accidents, parked motorcycles may not be chained or attached in any manner to any

Common Area structures, including but not limited to carport support poles.

7.1.12 Towing. The Board is empowered to make and amend rules and regulations which may include, without limitation, the types of vehicles which may be parked on the Properties, designating specific areas on the Common Areas for the parking of certain types of vehicles, and with regard to the issuance and display of decals to identify the vehicles of residents, guests, licensees, employees, agents or contractors. Parking privileges may be denied to any vehicles deemed by majority vote of the Board to be noisy, in disrepair or hazardous to the community. The Association may impose deposits and fees in such amounts as the Board of Directors may determine to be appropriate as a prerequisite to the issuance of a decal. All vehicles parked on the Properties contrary to the provisions of this Declaration or any rules and regulations made and amended from time to time by the Board of Directors shall be subject to being towed in accordance with Section 715.07, Florida Statutes, and any applicable local ordinances, as both may be amended from time to time. Towing shall not be the exclusive remedy of the Association for violations of this Declaration or the rules and regulations.

7.1.13 Self propelled vehicles of any type which are not licensed for use on public roads, including but not limited to mopeds, all-terrain vehicles (ATV's), scooters, motor bikes, golf carts and go carts, are not permitted to be operated on or over the common areas or recreation areas including but not limited to any sidewalk, grassy area or roadway within the community. Self propelled vehicles which are properly licensed, including the foregoing, and including but not limited to cars, motorcycles, and trucks may not be operated within the community by unlicensed drivers.

7.1.44 14 Certain Restrictions, Rules and Regulations. The following restrictions, rules and regulations shall be adhered to by each Owner, lessee, their guests and visitors:

A. No Owner, lessee, their guests or visitors shall make or permit any disturbance that will interfere with the rights, comforts or convenience of others.

B. All Owners and lessees of Units in The Properties shall abide by this Declaration, the Articles of Incorporation, the By-Laws and all Rules and Regulations as they are adopted from time to time by the Board of Directors. The Owners shall, at all times, obey the Rules and Regulations and shall use their best efforts to see that they are faithfully observed by their families, guests, invitees,

servants, lessees and persons over whom they exercise control and supervision. In order to change or amend any Rule or Regulation and/or adopt new rules and regulations, the same must be duly adopted by at least a fifty-one percent (51%) affirmative vote or consent of the Board of Directors. No vote of the membership shall be required. A change, amendment or adoption of a rule or regulation shall not require an amendment to the Declaration or the By-Laws.

C. No graffiti or chalk markings may be made on any exterior surface of any Lot, Common Area, Recreation Area or Association property, including but not limited to sidewalks, driveways, parking areas, or grassy areas.

7.2 Utility Easements: There is hereby created a blanket easement upon, across, over, through and under The Properties for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems including, but not limited to, water, sewers, telephone, electricity and cable television and security lines and systems. By virtue of this easement it shall be expressly permissible for the ~~Developer~~ Association or the providing utility or service company to install and maintain facilities and equipment on The Properties, to excavate for such purposes providing the party causing such excavations restores disturbed areas to the condition in which they were found. Notwithstanding anything to the contrary contained in this Paragraph, no sewers, electrical lines, water lines or other utility service lines or facilities for such utilities may be installed or relocated on The Properties except as approved by the ~~Developer~~ Association nor shall the same be located in areas upon which any building is erected. This easement shall in no way affect any other recorded easements on the Properties. ~~The rights of the Developer as provided in this Paragraph shall automatically expire upon Developer selling the last Unit in The Properties to a purchaser and thereupon all rights vested in the Developer under this Paragraph shall be deemed to be vested in the Association.~~

Easements for drainage, installation and maintenance of utilities and for ingress and egress are reserved as shown on the recorded plat(s) of The Properties. Within these easements, no plantings, buildings or other permanent structures may be placed or permitted to remain that will interfere with vehicular traffic or prevent maintenance of utilities. Public utility companies servicing The Properties and the Association, and their successors and assigns, shall have a perpetual easement for the installation and maintenance of water lines, sprinkler lines, sanitary sewers, storm drains, electric and telephone lines, cables and conduits, including television and security cables and conduits, under and through the utility easements as shown on the plats and under and through such portions of The Properties as are beyond the buildings thereto, as such buildings may from time to time be located. Any damage

caused to pavement, driveways, drainage structures, sidewalks, other structures or landscaping in the installation and maintenance of such utilities shall be promptly restored and repaired by the utility whose installation or maintenance caused the damage.

7.3 Maintenance of Units. Each Unit Owner agrees to maintain in good condition and repair his Unit and all interior and exterior surfaces within or surrounding his Unit (such as the surfaces of the walls, ceilings, floors, garage doors, etc.), whether or not part of the Unit, and to maintain and repair the fixtures therein, which includes, but is not limited to, the following where applicable; air conditioning and heating units including all mechanical portions thereof located in the Unit, refrigerators, stoves, fans and hot water heaters, cable television lines within the Unit, security system lines and equipment within the Unit, all plumbing and water lines within the Unit, electrical panels, electrical wiring and electric fixtures within the Unit, all windows, screening and glass, and to pay for such utilities are separately metered to his Unit. Where a Unit is carpeted, the cost of replacing carpeting shall be borne by the Owner of said Unit.

Each Owner further agrees to allow the Board of Directors, and their agents and employees to enter, after not less than 48 hours prior notice, into any unit for the purpose of maintenance, inspection, repair, replacement of the improvements within the units or to determine compliance with the provisions of this Declaration and the By-Laws of the Association. In case of emergency circumstances threatening units, no prior notice shall be required.

Any portion of the Properties for which the Owners are responsible for maintenance, repair or replacement where the responsibility is shared by two or more of the Owners, may be performed by the Association and allocated equally to the effected Owners. Examples of such repairs include, but are not limited to, damage to seamless gutters covering multiple units and damages resulting from insect infestation in multiple units in a building. The Association shall provide written notice to the effected Owners before performing the repair. Any costs advanced by the Association to perform the repairs contemplated hereunder shall be enforceable against the effected Owners in the same manner as any assessment under Article 6 of this Declaration.

All Units must turn on their front fence lights or in the case of end units front wall lights from dusk unit dawn using a sunlight sensing device which automatically activates and deactivates these lights. Lighting fixtures installed on the fence or the front wall of end units, must be approved by the Association and emit at least 180 watts of light. Any defective fence or front wall (on end units) lighting fixtures, sensors or bulbs must be replaced immediately at the expense of the Unit owner. The Association may elect to bear the expense of rewiring a Unit and installing a sunlight sensing device and/or approved lighting fixture purchased by the Unit owner to help ensure residents comply with the foregoing lighting covenant. In the event that a units wiring is not in accordance with original construction, the unit owner shall be responsible for the cost of restoration of such wiring as it pertains to lighting.

Gutters shall be cleaned by the Association at the Association's expense at lease once per year.

Notwithstanding any provision to the contrary in this Declaration, the Articles of Incorporation or the By-Laws, when the Association Board of Directors determines that a building roof has passed its serviceable life, the Association is responsible to follow existing building codes and pay for the costs of (1) replacing the roof shingles, using fiberglass, fungus resistant material; (2) install asphalt saturated felt kin-tagged to the deck; and (3) install sheet metal flashing (i.e. drip edge metal, L-flashing at walls valley metal and miscellaneous vents, and plumbing stack leads) where required, or an acceptable alternative to items 1, 2 and 3 as approved by the Board of Directors. The Unit Owners are responsible for the cost of replacing any damage, or unserviceable decking, sheathing, fascia or soffits which must be maintained in a proper state of repair as determined the Association Board of Directors. The Unit Owners are further responsible to fully repair the roof above their unit in the event any section or portions of the roof is defective or damaged at any time prior to the end of the roof's serviceable life, such as may be the case as a result of (1) the presence of defective fire-retardant plywood or (2) damage resulting from fire, wind, storms, trees, lightning, hail, vandalism, unit owner actions or repairs whether or not they are negligent, which actions or repairs are contracted by the individual Unit Owner.

At the time that the Association shall perform roof replacement in the manner defined in this Article 7.3 and Article 4.2 of this Declaration, the Association shall have the authority, but not the obligation, to perform items of repair or replacement identified in this Article 7.3 and Article 4.2 of the Declaration as unit owners responsibilities, with the cost for such repair and replacement being the responsibility of the unit owner. Said cost shall be deemed an individual assessment and shall be collectible in the manner provided for the collection of assessments in this Declaration.

The roof replacement as required by this sub-section shall be performed not more than ~~45~~twenty (20) years from the date of the original construction and installation of the roofs and thereafter said roof replacement shall be performed at the end of the serviceable life of the roofs.

In the event (1) a building's roof is damaged before the end of it's serviceable life; (2) the majority of the unit owners in the building consent to the replacement said building's roof; and (3) the building owner's pay the cost of replacement of said roof in advance to the Association, less any contribution made by the unit owners of said building to the Association's roof reserve for future roof replacement of said building, the Board shall have the power, but not the obligation, upon majority vote of the Board to contract with a Licensed Roofing contractor to replace said roof. In the event a roof is replaced in this manner, the serviceable life of the said roof shall begin as of the date of said roof replacement.

Notwithstanding any provisions to the contrary in this Declaration, the Articles of Incorporation or the Bylaws, when a building is deemed by the Association Board of Directors to require painting, the Association shall be responsible to pay the costs to pressure clean all surfaces to be painted, caulk and paint the building including all exterior (1) wood surfaces, (2) fences, (3) front door and frame, (4) railings including the metal railing on balconies and the front gate, and (5) all wood trim. The Association shall not be responsible for painting patio deck surfaces in the front or rear of a unit which painting will be the responsibility of the individual Unit Owner. Prior to the scheduled painting of a building, the Unit Owner is responsible for the cost to treat any un-primed wood for termites, repair and caulk damaged wood, framing, etc. and use a primer paint to cover any unpainted surfaces

Painting as required by this Declaration shall be performed when necessary, but, notwithstanding the foregoing, each unit shall be painted not less than every ~~five (5)~~ seven (7) years.

7.3.1 Siding Repairs:

When less than fifty percent (50%) of a section of existing plywood siding has evidence of wood rot as determined by the Board of Directors, Manager, and/or any Committee or person designated by the Board for inspection purposes, plywood sheeting of a type, strength and size as determined by the Board must be used for repairs. When making plywood repairs, an entire 4' X 8' sheet of plywood or other size as may be determined by the Board of Directors from time to time, must be used. A "section" is defined as the entire horizontal run of siding, including gables, above, beneath or between the drip edges, that meets at not less than two corners or edges of each individual unit. No patchwork repairs consisting of less than one full sheet of plywood is permitted. All plywood must be installed with the grain running vertically.

If more than fifty percent (50%) of the existing plywood siding in a section has evidence of wood rot as determined above, then such entire damaged section or run must be replaced with a brand, type, style, color and finish of siding as may be determined by the Board from time to time, in accordance with the applicable building codes. All such panels must be installed with the grain running vertically.

During repairs to a Unit, any rotted wood or structural supports behind the exterior surface must be repaired by a licensed contractor and conform to all existing building codes. All repairs must be secured using only rust proof

decking screws. After any repairs are completed, the repair must be primed and painted using paint that exactly matches the existing exterior color of the remainder of the building when dry. Any permits and inspections required by code must be properly completed during the course of construction. Siding, fencing panels, joints, and battens must be solidly affixed to the substructure. The substructure must be free of rot and or other damage before siding may be attached. All repairs to a Unit must be completed within twenty (20) business days after they are commenced. Additional time may be permitted at the discretion of the Board of Directors.

All siding on a Unit, including all door and window trim and battens, must be installed by a licensed contractor in accordance with local building codes. Building permits must be obtained. Unit owners are not permitted to do any Unit siding work themselves. All installations must have full 5/8" exterior plywood backing, or such other backing as the Board of Directors may require from time to time, that has no evidence of damage or rot. Any rotted wood comprising the underlying structure of the Unit must be replaced with pressure treated wood before installing any siding.

Seams between adjoining Units and adjoining sheets of siding must appear to match and no visible seams should exist.

7.3.2 Fence Repairs:

Fencing must be installed and properly secured to the underlying framing and/or Unit wall using only rust proof decking screws. Framing must be installed behind all fencing consistent with the framing used in the original construction and must be pressure treated 2" x 4" studs and 4" X 4" pressure treated posts. Framing must be constructed so that the 2" x 4" studs are at 16" on center. Battens must be properly secured to the framing at 16" on center and cover all fence joints. 1" x 4" trim boards are to be used at the corners. (See Batten and Trim section below)

The cap on the top of a fence must be smooth 6.25" x 3" pressure treated wood. Since pressure treated wood is not stocked by suppliers in this size, fence cap must be milled down from stock 8" x 4" pressure treated wood to 6.25" x 3" by a wood shop. Fence caps may not be installed that do

not have a smooth surface or are warped. A continuous run of a fence cap for a Unit cannot be installed in more than three (3) horizontal pieces, which would include the side section. An angle cut (45 degree) must be used to connect a continuous cap. Smaller sized pressure treated wood cannot be stacked vertically or horizontally to form a 3" x 6" fence cap. Fence caps must be securely affixed to the underlying framing using 6" X 3/8" inches lag bolts counter sunk and filled with paintable wood putty to hide bolt heads and placed at a distance of not greater than 3 feet.

7.3.3 Battens and Trim:

All batten strips used for fencing and building surfaces must be 1" x 2" pressure treated wood or such other material as may be approved by the Board of Directors from time to time, such as Hardie Trim Board 1" x 4", "ripped" in half. Batten strips must not be warped or uneven. All batten strips must be placed at 16" on center, and securely affixed to the substructure. All batten strips must be placed so as to be secured to the underlying framing in such a way that all siding joints are covered. Batton must be secured using only rust proof decking screws

Trim pieces above the doors and windows must be 1" x 8" Hardie Trim Board or pressure-treated wood. Trim around sides of doors and windows must be 1" x 4", Hardie Trim Board, or other type of wood board approved by the Board from time to time, or pressure-treated wood. All such Hardie Trim Board or other materials approved by the Board of Directors and pressure-treated wood trim must match the texture and grain of the approved siding.

7.3.4 Screen Enclosures:

Screen enclosures may only be constructed using rust-proof black aluminum framing consistent with other screen enclosures within Riverwalk. Black screen material must be used when replacing the screens. A screen enclosure may not include any aperture other than one standard size screen door. Other apertures, including, but not limited to: doggie doors or windows, are strictly prohibited.

If there is no screen enclosure, only courtyard (walkway) gates consistent with the original construction may be

installed. All other types of gates and/or barricades are strictly prohibited.

Main entrance doors must be replaced with only white metal doors having 6 to 8 panels or such other types or sizes of panels as may be approved by the Board of Directors from time to time, in order to achieve a consistent appearance with the original Riverwalk construction.

7.3.5 Roof Repairs:

Roof repairs must use the same color and texture of shingles originally installed on the roof. Only a licensed and insured roofing contractor with all required permits may repair or replace a roof.

7.3.6 Inspection Upon Completion:

Any questions or confusion about materials used or procedures for repairs must be resolved by the Unit Owner by contacting the Association's office in writing before proceeding with the repair. Upon completion of any or all exterior wood repairs, inspection by the Association is required. Do not assume that any repairs that have been performed and have not been inspected are acceptable. If repairs are not completed in accordance with the above regulations, the Board of Directors reserves the right to require that the repairs be redone correctly.

7.3.7 Window and Door Treatment:

No awnings or other projections, except those approved by the Board of Directors shall be attached to the outside walls of the building without the prior written consent of the Homeowners Association. The placement of any approved projections will be determined by the Board of Directors in order to maintain a uniform look. Window treatments used must be marketed as such, including vertical blinds, curtains or drapes and must be properly hung and must appear neutral (the term "neutral" to be defined as white, off-white or beige) and consistent in appearance from the outside. Non-neutral materials must be lined so as to appear neutral from the outside to maintain a uniform look throughout the community.

7.4 Exterior Additions, Alterations or Improvements to Units: No addition, alteration or improvement in or to the exterior of any Unit or any terrace or balcony attached or appurtenant thereto shall be made by the Owner of any Unit or any other party without the prior written consent thereto of the Board of Directors. The Board shall have the obligation to answer any written request by an Owner for approval of such proposed addition, alteration or improvement. The refusal of the Board to consent to such proposed addition, alteration or improvement may be based on any ground, including aesthetic grounds, which the Board, in its sole discretion, deems sufficient. It shall be a condition precedent to the granting of the consent of the Board of Directors to the making of any such additions, alterations or improvements that the Owner of such Unit furnished satisfactory evidence to the Board of Directors that the proposed addition, alteration or improvement complies with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction. Any change in the exterior appearance of any Unit, including any screening, fencing or other enclosures of any balcony terrace or patio attached or appurtenant thereto, shall be deemed an alteration requiring the approval of the Board of Directors. The Board of Directors shall have the power to promulgate such rules and regulations and to impose reasonable fees and charges as it deems necessary to carry out the purposes and intent of this paragraph. In the event any addition, alteration or improvement is constructed or placed upon or installed in or about the exterior of any Unit or any terrace, balcony or patio attached or appurtenant thereto without the written consent of the Board of Directors, the Board shall have the right to demand that such addition, alteration or improvement be removed and the premises restored to the condition thereof prior to such addition, alteration or improvement at the sole cost and expense of the Owner of such Condominium Unit. If such Owner fails to remove such addition, alteration or improvement and restore the premises within twenty (20) days after the giving of written notice by the Board to such Owner demanding such removal and restoration, the Board may, at its option, in addition to any other rights and remedies available to it, cause such addition, alteration or improvement to be removed and the premises restored at the sole cost, expense and risk of such Owner. The Board of Directors, its contractors, agents and employees, shall have the right to enter upon such Unit at all reasonable times for the purpose of performing such removal and restoration. If such Owner fails to pay the costs and expenses of such removal and restoration within twenty (20) days after written demand therefore, the Board may assess the amount of such costs and expenses against such Unit. All of the provisions of this Declaration which generally apply to special assessments shall apply to any special assessment imposed on the basis of this Paragraph.

7.4.1 HURRICANE/SECURITY SHUTTERS. Notwithstanding the provisions of Section 7.4 above, only accordion style shutters may be installed as permanent shutters without the prior written consent of the Board of Directors, provided, however, that the Board may adopt such guidelines as the Board determines to be necessary and proper to identify permissible types of accordion style shutters, including, but not limited to, limitations on the permissible colors of such shutters, which shall be enforceable, regardless of whether or

not prior written consent is required for the installation. The Board may also adopt additional rules and regulations regarding the operation of hurricane shutters, including, but not limited to, requiring shutters to be closed when the Owner is absent from the Unit for an extended period, as defined by the Board of Directors, or when a hurricane warning is issued. ~~the following addition, alteration or improvement to a Unit, or any terrace or balcony attached or appurtenant thereto, may be made without the prior written consent of the Board of Directors.~~

- A. ~~Permanent white "Bahama" type shutters for all windows, with the exception of the front and back patio windows where there is an option of white "Accordian" type shutters.~~
- B. ~~Permanent "Accordian" type shutters for all sliding glass doors.~~
- C. ~~Temporary aluminum "Storm Panels" for all windows and doors with the following restrictions:~~
 - i. ~~Storm panels are not to be installed for any other reason than for temporary hurricane protection.~~
 - ii. ~~Storm panels are permissible ONLY during HURRICANE WATCH or HURRICANE WARNING conditions as defined by the Palm Beach County Division of Emergency Management.~~
 - iii. ~~Storm panels, once installed are to be removed within seven (7) days after the eminent HURRICANE WATCH or WARNING condition has been lifted. Those unit owners who opt to install the storm panels and evacuate the area and then are subsequently unable to return to remove the panels within the seven (7) days period, must notify the Association within this same seven (7) day period and request permission for temporary extended use of the storm panels.~~
 - iv. ~~The storm panel support structures (runners or rails) which may be permanently attached to the exterior of the building area to be painted to match the color of the building.~~

ARTICLE 8

MORTGAGEE'S RIGHT OF ACCESS

All mortgagees shall have a right of access across all Common Areas for the purpose of ingress and egress to any and all Units and other properties upon which they hold a mortgage.

ARTICLE 9

SALES ACTIVITY AND DEVELOPER'S RIGHTS

~~Until the Developer has completed, sold and conveyed all of the Units to be constructed within The Properties, neither the Owners, nor the Association nor their use of the Common Areas and Recreation Area shall interfere with the completion of the contemplated improvements and the sale of Units. The Developer (or its duly authorized agents or assigns) may make such use of the unsold Units, Units sold and leased back to the Developer, the Common Areas (including any building erected as an office for the Association together with clerical personnel therein) and Recreation Area as may facilitate such completion and sale including, but not limited to, as rental units, the maintenance of sales offices for the showing of the property, the leasing and resale of Units by a licensed real estate brokerage company affiliated with the Developer and display of signs, billboards, placards and visual promotional materials. The Developer shall have the right to use common parking spaces, if any, located on the Common Areas for prospective purchasers and such other parties as Developer determines. Developer reserves the inalienable right to complete the development of The Properties, including the Common Areas and Recreation Area, notwithstanding that a purchaser of any Unit has closed title to his Unit.~~

ARTICLE 9

CONVEYANCES, SALES AND TRANSFERS

In order to provide for congenial occupancy of The Properties and for the protection of the values of the Units, the use of The Properties shall be restricted to and shall be in accordance with the following provisions:

9.1 Transfers Subject To Approval. The following transfers shall be subject to prior written approval of the Board of Directors and any transfer undertaken without prior written approval of the Board of Directors shall be void:

9.1.1 All sales of Units except: 1) judicial sales conducted pursuant to a judgment of foreclosure held by an Institutional First Mortgagee encumbering a Unit or public sales conducted by the Palm Beach County Tax Collector resulting from the failure to pay real property taxes; or 2) sales of a Unit to another Unit Owner.

9.1.2 All transfers by lease.

9.1.3 All transfers by gift.

9.1.4 All transfers by devise or inheritance other than to a spouse.

9.1.5 Any other transfer of title to or possession of a Unit.

9.1.6 All transfers subject to approval shall require, as a condition of approval, the payment to the Association of a transfer fee not to exceed the maximum amount permitted by the Homeowner Association Statute, as same may be amended from time to time, and, if the aforementioned Statute is silent, the fee may be determined by the Board of Directors from time to time, with husband/wife or parent/dependent child counting as a single applicant.

9.1.7 All transfers by lease may be conditioned upon the posting of a security deposit not to exceed the maximum amount permitted by the Homeowner Association Statute, as same may be amended from time to time.

9.2 Notice to Association. Prior to approving any transfer subject to approval hereunder, the Association shall be entitled to written notice of the transferor's intent to make the transfer with a copy of the documentation evidencing the intended transfer, including, but not limited to, a copy of the contract for sale in the case of a sale, a copy of the Letters of Administration for the Personal Representative of a deceased Owner's estate and such other documentation from the Probate Court file as the Board may reasonably require in the event of a transfer by devise, a copy of the lease in the case of a lease, and a copy of any other documentation pertaining to a proposed transfer subject to approval hereunder which the Association may reasonably require, completed applications on forms prescribed by the Association, a personal interview with the proposed transferee(s) and any other intended occupants of the unit, and such other and further information about the intended transferees or occupants as the Association may reasonably require.

9.3 Association's Election. Within thirty (30) days of receipt of the last of the information required pursuant to Section 9.2 above, the Association must either approve or disapprove the transfer. Failure on the part of the Association to respond within said thirty (30) day period shall constitute automatic approval for the proposed transfer.

9.3.1 Approval. In the event the Association approves any transfer subject to approval hereunder, the Association shall deliver to the transferor or the transferor's designee an executed certificate of approval, approving the transfer, executed by an authorized representative of the Association.

9.3.2 Disapproval of Transfer of Title. In the event the Board of Directors disapproves a proposed sale, unless good cause exists, as defined below, the Association must, within thirty (30) days of receipt of the last of the information provided pursuant to Section 9.2 hereof, provide the Owner with an executed contract from the Association or another purchaser acceptable to the Association, which contract must provide for the purchase of the Unit on the same terms as

were set forth in the original proposed contract for sale, which contract must provide for a closing date within sixty (60) days from the date it is delivered to the Owner by the Association. If the conveyance or transfer was a gift, devise or inheritance, unless good cause exists, as defined below, the purchase price shall be determined by an appraiser selected by and at the expense of the substitute purchaser. The Association shall have the right to inspect the Unit for the purpose of preparing any appraisal. If the Unit Owner does not agree with the appraisal, the Owner may select and pay for another appraisal and the purchase price shall be the average of the two appraisals. If the Association does not respond to the application within thirty (30) days, as set forth above, or the substitute purchaser provided by the Association does not close within thirty (30) days, as set forth above, the original transaction shall be deemed approved and the Unit Owner may proceed to closing and shall be entitled to a Certificate of Approval as described in Paragraph 9.3.1 of this Section 9.3.

9.3.3 If good cause exists for the Association to disapprove a proposed sale, conveyance or transfer by gift, devise or inheritance, the Association shall not be obligated to purchase or provide a substitute purchaser for the Unit. Good cause shall be defined to include the following:

9.3.3.1 The applicant fails to qualify for membership in the Association, including, but not limited to, those applicants who fail to qualify for membership because of the restrictions on occupancy or ownership set forth in this Declaration; or

9.3.3.2 Any of the person(s) seeking approval has been convicted of: (1) any felony within the ten (10) years preceding the date of application, (2) a felony involving violence to persons, (3) a felony involving drugs or narcotics, or (4) a felony where the victim was a minor.

9.3.3.3 For transfers by sale, the person(s) seeking approval, where any one of the persons has a history of evictions, bad debt or a credit score of less than 550; or

9.3.3.4 The applicant takes possession of the Unit prior to approval by the Association as provided for herein; or

- 9.3.3.5 Where any one of the person(s) seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in this Association as a lessee, guest, owner or occupant of a Unit; or
- 9.3.3.6 The applicant fails to comply with the requirements of Section 9.2 hereof.
- 9.3.3.7 No transfer of title will be approved if, at the time of the application or at any time prior to the time approval is to be granted, the Unit is delinquent in the payment of any financial obligation to the Association under this Declaration or under any of the governing documents or the applicable Statute, or if the Unit is in violation of any provision of this Declaration or the Rules and Regulations which remains uncured at the time the Association is required to make its election hereunder.

9.4 Leasing. The Association must approve or disapprove a lease within thirty (30) days of receipt of the last of the information provided pursuant to Section 9.2 hereof. The Association may disapprove a lease on any reasonable grounds, including, but not limited to, any of the provisions defining good cause for transfers of title which might be applicable. The Owners are responsible for the conduct of their tenants on the Properties and, upon violation of this Declaration or any of the other governing documents, the Association has the right to enforce these covenants against the Owner and the tenant, including, but not limited to, by removing the tenant from the Unit and from the Properties. No lease shall be approved for a term which is less than six (6) months or more than twelve (12) months. An Owner may not lease a Unit more than twice in any twelve (12) month period, measured from the commencement date of the most recent previous lease of the Unit.

ARTICLE 10

ENFORCEMENT OF RESTRICTIONS, COVENANTS, RULES AND REGULATIONS

10.1 Compliance by Owners: Every Owner shall comply with the restrictions and covenants set forth herein and any and all Rules and Regulations from time to time adopted by the Board of Directors of the Association.

10.2 Enforcement: Failure of the Owner to comply with such restrictions, covenants, or Rules and Regulations shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief or any combination thereof, including costs and attorney's fees incurred in bringing such actions, and if necessary, costs and attorney's fees for appellate review. The

Association shall have the right to suspend voting rights and use of the Common Areas (except the private streets, sidewalks and driveways from time to time located on the Common Areas and Recreation Area) as more particularly provided in Paragraphs 4.4 and 5.3 hereof. In addition to and cumulative with the foregoing, the failure of an Owner to fulfill his or her obligations under Sections 7.3 or 7.4 hereof shall entitle the Association to access to the Unit to the extent necessary and perform any required corrective or remedial work, as may be determined in the discretion of the Board of Directors, and any costs thereby advanced by the Association may be collected from the Owner in the same manner as an assessment under Article 6 of this Declaration, including, but not limited to, by recordation and foreclosure of a claim of lien against the Unit.

10.3 Fines: In addition to all other remedies, in the sole discretion of the Board of Directors, a fine or fines may be imposed upon an Owner for failure of an Owner, his family, guests, invitees, tenants, or employees to comply with any covenant, restriction, rule or regulation contained herein or promulgated pursuant hereto provided the following procedures are adhered to: The Board may adopt such rules and regulations as may be necessary and appropriate to establish a fining procedure consistent with the requirements of applicable law.

~~10.3.1 Notices. The Association shall notify the Owner of the infraction or infractions. Included in the notice shall be the date and time of the next Board of Directors meeting at which time the Owner shall be afforded the opportunity to present reasons why a fine or fines should not be imposed.~~

~~10.3.2 Hearing. The matter of non-compliance shall be presented to the Board of Directors at such meeting of the Board and the Board shall hear reasons why penalties should not be imposed. A written decision of the Board of Directors shall be furnished to the Owner no later than twenty one (21) days after the conclusion of the said meeting of the Board.~~

~~10.3.3 Appeal. Any Owner aggrieved by the decision of the Board of Directors as to a non-compliance may file a written request with the Board for an appeal of such decision. Such written request must be filed within seven (7) days after the furnishing of such decision to the Owner charged with any matter of non-compliance. An appeals committee shall be appointed by the Board within seven (7) days after the filing of such request for appeal consisting of three (3) non-interested Members of the Association. The said appeals committee will meet and file a written determination of the matter and serve copies on both the Board and the Owner. In no case shall the appeals committee's findings be binding on either party; however, the Board may elect to review its decision in the light of the findings of the appeal committee.~~

~~10.3.4 Penalties. The Board of Directors may impose special assessments against the Unit owned by the Owner as follows:~~

~~A. First non-compliance or violation — a fine not in excess of ONE HUNDRED DOLLARS (\$100.00).~~

~~B. Second non-compliance or violation — a fine not in excess of FIVE HUNDRED DOLLARS (\$500.00).~~

~~C. Third and subsequent non-compliance or violation or violations that are of a continuing nature — a fine not in excess of ONE THOUSAND DOLLARS (\$1,000.00).~~

~~10.3.5 Payment of Fines. Fines shall be paid no later than thirty (30) days after notice of the imposition or assessment thereof.~~

~~10.3.6 Collection of Fines. Fines shall be treated as an assessment otherwise due to the Association.~~

~~10.3.7 Application of Fines. All monies received from finds shall be allocated as determined by the Board of Directors.~~

~~10.3.8 Non-exclusive Remedy. The imposition of fines pursuant hereto shall not be construed to be an exclusive right or remedy, and the right to impose such fines shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; provided, however, that any fine paid by the offending Owner shall be deducted from or offset against any damages that the Association may otherwise be entitled to recover by law from such Owner.~~

ARTICLE 11

AMENDMENTS

~~11.1 Amendment by Developer: Until the Developer has completed, sold and conveyed all of the Units to be constructed within The Properties (“Completion Date”), any amendments involving matters required by Governmental agencies or institutional lenders may be made by Developer alone, which amendments shall be signed by or on behalf of Developer and need not be joined by any other party.~~

~~11.2~~ 11.1 Amendment by Owners: After the Completion Date, this Declaration may be amended only with (a) the written consent of a majority of all Owners or the affirmative vote of a majority of those Owners present (in person or by proxy) at a duly called meeting of the Owners at which a quorum is present, and (b) a majority of the

entire Board. An amendment duly adopted by the Owners as provided herein shall be affixed to a certificate of adoption executed by the Association following the formalities required for the execution of deeds and shall be effective when recorded in the Public Records of Palm Beach County.

~~11.3~~ 11.2 ~~Limitation on Amendment:~~ Notwithstanding anything to the contrary contained herein, (a) no amendment shall be effective which shall, in a material fashion, impair or prejudice the rights or priorities of ~~the Developer or of~~ any institutional mortgagee under this Declaration without the specific written approval of the ~~Developer or~~ institutional mortgagee affected thereby.

~~11.4 Non-material Amendments:~~ Notwithstanding the foregoing, so long as Developer is entitled to elect the entire Board, Developer may amend this Declaration in order to correct a scrivener's error or other defect or omission without the consent of the Owners, provided that such amendment does not materially and adversely affect an Owner's or institutional mortgagee's property rights. Any such amendment may be signed by or on behalf of Developer alone and a copy of the amendment shall be furnished to each Owner, the Association and all institutional mortgagees as soon after the recording thereof amongst the Public Records of Palm Beach County, Florida as is practicable.

~~11.5 Surveyor Error:~~ Notwithstanding anything to the contrary herein, the Developer reserves the right to amend the Declaration or the Exhibits thereto so as to correct any errors or omissions, or any legal description contained herein, which legal description may have been incorrect by reason of a scrivener's or surveyor's and/or platting error, so long as such amendments do not materially affect the rights of unit owners, lienors or mortgagees. Such amendment need be executed and acknowledged by the Developer only, and need not be approved by the Association, unit owners, lienors or mortgagees of units, whether or not elsewhere required for amendments.

~~11.6~~ 11.3 ~~Effective Date:~~ Any amendment to this Declaration shall become effective upon the recordation thereof in the Public Records of Palm Beach County, Florida.

ARTICLE 12

ASSIGNABILITY OF RIGHTS OF DEVELOPER

~~The rights and privileges reserved in this Declaration in favor of the Developer are freely assignable, in whole or in part, by the Developer to any party who may be hereafter designated by the Developer to have and exercise such rights, and such rights may be exercised by the Developer, the nominee, assignee or designee of the Developer, the successor or successors in interest of the Developer, and/or the successor or successors in interest of the nominees, assignees or designees of the Developer.~~

ARTICLE ~~13~~ 12

PARTY WALLS

~~13~~ 12.1 Declaration: The common walls and limited common property shared by the townhome units shall be party walls and limited common property for the successors and grantees, of each such townhome unit.

~~13~~ 12.2 Maintenance, Repair or Reconstruction: In the event of damage or destruction of the party walls or the limited common property from any cause whatsoever, other than the negligence or willful misconduct of a townhome owner, the townhome owners shall, at their joint expenses, repair and rebuild said wall(s) and limited common property, and each townhome owner shall have the right to full use as herein contained of said wall(s) and limited common property repaired or rebuilt. In the event it shall become necessary or desirable to perform maintenance on the whole or any part of the party wall(s), and limited common property, such expense shall be shared equally by the owner of the adjoining townhome unit(s) or his successor in title. Whenever such wall and limited common property or any part thereof, shall be rebuilt, it shall be erected in the same manner and at the same location where it shall initially be constructed, and shall be of the same size and of the same or similar materials and of like quality. Provided, that if such maintenance, repair or construction is brought about solely by the neglect or the willful misconduct of one (1) townhome unit owner, any expense incident thereto shall be borne solely by such wrongdoer. If a townhome owner shall refuse to pay his share of such cost or all of such cost in the case of negligence or willful misconduct, any other townhome unit owner may have such wall repaired or reconstructed and shall be entitled to a lien on the townhome of the owner so failing to pay for the amount of such defaulting owner's share of the repair or replacement cost plus the amount of damages, if any, together with a reasonable attorney's fee incurred. If a townhome owner shall give, or shall have given, a mortgage or mortgages upon his townhome, then the mortgagee shall have the full right at his option to exercise the rights of the mortgagor as an owner hereunder and, in addition the right to add to the outstanding balance of such mortgage any amounts paid by the mortgagee for repair hereunder and not reimbursed to said mortgagee by the townhome unit owner. Any townhome owner removing his improvements from the party wall or making use of the party wall or limited common property shall do so in such manner as to preserve all rights of the adjacent owner in the wall or limited common property, and shall save the adjacent owner harmless from all damage caused thereby to improvements then existing. In the event repairs or reconstruction shall be necessary, all necessary entries on the adjacent townhome unit(s) shall not be deemed a trespass as long as the repairs and reconstruction shall be done in an expedient and workmanlike manner, consent being hereby given to enter on the adjacent unit to effect necessary repairs and reconstruction.

~~13~~ 12.3 Restriction or Alterations: The owner of any townhome unit sharing a party wall or limited common property with the adjoining townhome unit(s) shall not

possess the right to cut windows or other openings in the party wall, nor make any alterations, additions or structural changes in the party wall or limited common property.

~~13~~ 12.4 Use of Party Wall: The owner of any such townhome unit shall have the right to the full use of said party walls and limited common property for whatever purposes he chooses to employ, subject to the limitation that such use shall not infringe on the rights of the owner of an adjoining townhome unit or his enjoyment of said walls or limited common property in any manner or in any manner impair the value of said walls or limited common property.

ARTICLE ~~14~~ 13

GENERAL PROVISIONS

~~14~~ 13.1 Duration: The covenants, conditions and restrictions of this Declaration shall run with and bind The Properties, and shall inure to the benefit of and be enforceable by the Association, ~~the Developer~~ and any Owner, their respective legal representatives, heirs, successors, and assigns, for an initial period to expire on the thirtieth (30th) anniversary of the date of recordation of this Declaration. Upon the expiration of said initial period, this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial period, or during the last year or any subsequent ten (10) year renewal period, three-fourths (3/4) of the votes cast at a duly held meeting of Members of the Association vote in favor of terminating this Declaration at the end of its then current term. It shall be required that written notice of any meeting at which such proposal to terminate this Declaration is to be considered, shall be given at least forty-five (45) days in advance of said meeting. In the event that the Association votes to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Association, the total number of votes required to constitute a quorum at such meeting of the Association, the number of votes necessary to adopt a resolution terminating this Declaration, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. Said certificate shall be recorded in the Public Records of Palm Beach County, Florida, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

~~14~~ 13.2 Notice: Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who

appears as Member or Owner on the records of the Association at the time of such mailing.

44 ~~14.7~~ 13.3 Enforcement: Enforcement of these covenants and restrictions shall be by any proceeding provided herein or by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the property to enforce any lien created by these covenants and restrictions. Any failure by ~~the Developer~~, the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

44 ~~14.8~~ 13.4 Severability: Invalidation of any one or more of the covenants, restrictions or provisions of this Declaration by judgment or court order shall in no way affect any other covenant, restriction or provision hereof and such other covenants, restrictions and provisions are hereby declared to be severable and shall remain in full force and effect.

44 ~~14.9~~ 13.5 Captions: The captions used in this Declaration are inserted solely as a matter of convenience and shall not be relied upon and/or used in construing the effect or meaning of the text of this Declaration.

~~44.6 13.6 Limitations: So long as the Developer is in control of the Association and is pursuing the development of The Properties, the Association may take no action whatsoever in opposition to the development plan of The Properties or to any changes proposed thereto by the Developer.~~

44.7 13.6 Context: Whenever the context so requires, any pronoun used herein shall be deemed to mean the corresponding masculine, feminine or neuter form thereof and the singular form of any nouns and pronouns herein shall be deemed to mean the corresponding plural form thereof and vice versa.

44.8 13.7 No Implied Waiver: The failure of ~~Developer~~, the Association, the Board of Directors or any Owner to object to an Owner's or other party's failure to comply with any covenant, restriction or provision contained herein shall in no event be deemed a waiver of any such covenant, restriction or provision.

44.9 13.8 Termination of Declaration: Should the Members of the Association vote not to renew and extend this Declaration as provided for herein, all Common Areas owned by the Association at such time shall be transferred to a Trustee appointed by the Circuit Court of Palm Beach County, Florida, when Trustee shall sell the Common Areas free and clear of the limitations imposed hereby upon terms established by the Circuit Court of Palm Beach County, Florida. The proceeds of such sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Areas, then for the payment of any obligations incurred by the Trustee in the operation, maintenance, repair and upkeep of the Common Areas. The excess of proceeds, if

any, from Common Areas shall be distributed among Owners in proportion to the proportionate share such Owners bear of Common Expenses.

~~14.10 Execution of Documents: The plan for the development of The Properties may require from time to time the execution of certain documents required by Palm Beach County. If and to the extent that said documents require the joinder of Owners, the Developer, by its duly authorized officers, may as the agent or attorney-in-fact for the Owners, execute, acknowledge and deliver such documents and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint the Developer, through its duly authorized officers, as their proper and legal attorneys-in-fact for such purpose. Said appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section 10 shall recite that that it is made pursuant to this Section 10.~~

14.14 13.9 Additional Rights of Institutional Lenders: Institutional lenders (as herein before defined) shall have the right to make insurance premium payments on insurance policies carried by the Association for the benefit of the Association and the unit owners in connection with the maintenance of the common areas in the event the Association fails to make said payments. The Association shall be liable to said institutional lenders for any insurance premium payments made by said Lender. In addition, institutional lenders shall have the right to cure defaults of the Association in connection with the Association's obligations under this Declaration. Actions undertaken by institutional lenders to cure such defaults shall be made at the Association's expense.

14.12 13.10 Conflicts: In the event of any inconsistency between this Declaration and the Articles and By-Laws of the Association, the provisions of this Declaration shall supersede, govern and control.

13.11 Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Member or the Association to comply with the requirements of the Florida Statutes, this Declaration, the By-Laws, the Articles of Incorporation of the Association, the rules and regulations, or the Boat Storage Agreement, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (including appellate attorneys' fees).

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