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AMENDED AND RESTATED  
DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR  
REGATTA HOMEOWNERS' ASSOCIATION, INC.  
A Florida Not for Profit Corporation  
And Homeowners' Association

AMENDED AND RESTATED  
DECLARATION FOR COVENANTS AND RESTRICTIONS  
FOR  
REGATTA HOMEOWNERS ASSOCIATION, INC.

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**AMENDED AND RESTATED  
DECLARATION OF COVENANTS AND RESTRICTIONS  
OF  
REGATTA HOMEOWNERS' ASSOCIATION, INC.  
A Florida Not for Profit Corporation  
and Homeowners' Association**

WHEREAS, THIS AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS FOR REGATTA HOMEOWNERS' ASSOCIATION, INC., dated February 24, 1988 (the "Original Declaration"), was recorded in Official Record Book 5612, page 673, Public Records of Palm Beach County, Florida, and encumbers real property within the REGATTA HOMEOWNERS' ASSOCIATION, INC., as described therein; and

WHEREAS, REGATTA HOMEOWNERS' ASSOCIATION, INC. is the ASSOCIATION, and as successor in title and interest to the original Developer and it amended the Declaration, by recording First Amendment to Declaration of Covenants and Restrictions for REGATTA HOMEOWNERS' ASSOCIATION, INC. in the Official Record Book 11156, page 1920, recorded June 8, 1999.

WHEREAS, the Original Declaration, as supplemented, amended and restated, including this amendment and restatement, shall be referred to as the "Declaration";

NOW, THEREFORE, this is the AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS FOR REGATTA HOMEOWNERS' ASSOCIATION, INC. effective July 1, 2012.

**PURPOSE:**

ASSOCIATION IS THE HOMEOWNERS ASSOCIATION OF SUBJECT PROPERTY, a residential community. The purpose of this DECLARATION is to provide various use and maintenance requirements and restrictions in the best interest of the OWNERS of UNITS within the SUBJECT PROPERTY, and to protect and preserve the values of the LOTS within the SUBJECT PROPERTY. This DECLARATION also establishes that the ASSOCIATION will own, operate and / or maintain various portions of the SUBJECT PROPERTY and improvements constructed within the SUBJECT PROPERTY, which through its BOARD OF DIRECTORS shall have the right to enforce the provisions of this DECLARATION, and will be given various other rights and responsibilities. The expenses of the ASSOCIATION will be shared by the OWNERS of LOTS within the SUBJECT PROPERTY, each of who will be members of the ASSOCIATION.

NOW, THEREFORE, ASSOCIATION hereby declares that the SUBJECT PROPERTY, and such additions to the SUBJECT PROPERTY as may hereafter be made pursuant to the terms of this DECLARATION, shall be held, sold, conveyed, leased, mortgaged and otherwise dealt with subject to the easements, covenants, conditions, restrictions, reservations, liens and charges set forth in this DECLARATION, all of which are created in the best interest of the OWNERS of LOTS and residents of the SUBJECT PROPERTY, and which shall run with the SUBJECT PROPERTY and shall be binding upon all PERSONS having, and / or acquiring any right, title or interest in the SUBJECT PROPERTY, or any portion thereof, and shall inure to the benefit of each and every PERSON, from time to time, owning or holding an interest in the SUBJECT PROPERTY, or any portion thereof.

1. DEFINITIONS. The terms used in this DECLARATION, and in the ARTICLES and the BYLAWS, shall have the following meanings, unless the context otherwise requires:

1.01 ARTICLES mean the Articles of Incorporation of the ASSOCIATION, as same may be amended from time to time.

1.02 ASSESSMENT means the amount of money which may be assessed against an OWNER for the payment of the OWNER's share of COMMON EXPENSES pursuant to this DECLARATION, and / or any other funds which an OWNER may be required to pay to the ASSOCIATION as provided by this DECLARATION, the ARTICLES or the BYLAWS, which ASSESSMENT shall include those monetary obligations and assessments imposed and / or charged against a UNIT ("MASTER ASSESSMENTS") by the Mission Bay Community Association, Inc., a Florida not-for-profit corporation and its successors or assigns (hereinafter "MBCA") under and pursuant to the Declaration of Protective Covenants, Conditions and Restrictions for Mission Bay recorded on May 2, 1986, in Official Records Book 4864, at Page 1564, of the Public Records of Palm Beach County, Florida ("MASTER DECLARATION"), to which MASTER DECLARATION the SUBJECT PROPERTY is made subject, and in accordance with the MASTER DECLARATION the ASSOCIATION shall be responsible for collecting the MASTER ASSESSMENTS on behalf of the MBCA and remitting the MASTER ASSESSMENTS to the MBCA upon written request of the MBCA.

1.03 ASSOCIATION means the not-for-profit corporation established pursuant to the Articles of Incorporation attached hereto as Exhibit "B" and by this reference made a part hereof, as the same may be amended from time to time.

1.04 BOARD means the Board of Directors of the ASSOCIATION, which shall have the right to enforce the provisions of the governing documents of the ASSOCIATION which shall include this DECLARATION, the ARTICLES OF INCORPORATION, the BYLAWS and any RULES AND REGULATION enacted by the BOARD on behalf of the ASSOCIATION, and shall be given various other rights and responsibilities.

1.05 BYLAWS means the Bylaws of the ASSOCIATION attached hereto as Exhibit "C" and by this reference made a part hereof, as the same may be amended from time to time.

1.06 COMMON AREAS means any real property, whether improved or unimproved, or any easement or interest therein, now or hereafter owned by the ASSOCIATION or which is declared to be a COMMON AREA by this DECLARATION or which is dedicated to the ASSOCIATION on the Plat more particularly described on Exhibit "A." COMMON AREAS may include, but are not limited to, open areas, roads, entranceways and other similar properties; however, ASSOCIATION makes no representation or warranty that any or all of the foregoing types of COMMON AREAS will be provided or shall exist within the SUBJECT PROPERTY.

1.07 COMMON EXPENSES means all expenses of any kind or nature whatsoever incurred by the ASSOCIATION, including but not limited to the following:

1.07.1 Expenses incurred in connection with the ownership, maintenance, repair, improvement or operation of the COMMON AREAS, or any other property to be maintained by the ASSOCIATION as provided In this DECLARATION, including but not limited to utilities services, taxes, assessments, special assessments, capital improvements, insurance, administration, operation, maintenance, repairs, improvements, alterations and reserves.

1.07.2 Expenses of obtaining, repairing or replacing personal property or facilities used in connection with any COMMON AREA or the performance of any of the ASSOCIATION's duties.

1.07.3 Expenses incurred in connection with the administration, operation and management of the ASSOCIATION.

1.07.4 Expenses declared to be COMMON EXPENSES by the provisions of this DECLARATION or by the ARTICLES or BYLAWS.

1.08 COMMON SURPLUS means the excess of ASSESSMENTS and all other receipts of the ASSOCIATION over the amount of the COMMON EXPENSES.

1.09 DECLARANT or ASSOCIATION means the PERSON executing this DECLARATION recorded in the Public Records of Palm Beach County, Florida.

1.10 DECLARATION means this Declaration of Covenants and Restrictions for Regatta Homeowners' Association, Inc., as the same may be amended from time to time, and any and all exhibits appended to this DECLARATION.

1.11 INSTITUTIONAL LENDER means any PERSON (i) holding a mortgage encumbering a LOT, which (ii) in the ordinary course of business makes, purchases, guarantees or insures mortgage loans, which (iii) is not owned or controlled by the OWNER of the LOT encumbered, and which (iv) notifies the ASSOCIATION of same by written notice sent, certified mail, return receipt requested, to the ASSOCIATION'S office. An INSTITUTIONAL LENDER may include, but is not limited to, a federal or state-chartered bank or savings and loan association, an insurance company, a real estate or mortgage investment trust, a pension or profit sharing plan, a mortgage company, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, an agency of the United States or any other governmental authority, including the Veterans Administration and the Federal Housing Administration of the U.S. Dept. of Housing and Urban Development, or any other similar type of lender generally recognized as an institutional-type lender.

1.12 LOT means any parcel of land located within the SUBJECT PROPERTY which has been conveyed to an OWNER and which contains or is intended to contain a UNIT, and such LOT shall include any UNIT constructed upon the LOT.

1.13 OWNER means the record OWNER(s) of the fee simple title to a LOT.

1.14 PERSON means an individual, corporation, partnership, trust or any other entity validly existing at law or created by statute.

1.15 SUBJECT PROPERTY means all of the real property made subject to this DECLARATION from time to time, which initially is the real property legally described in Exhibit "A" attached hereto and by this reference made a part hereof, and the SUBJECT PROPERTY includes the LOTS and any UNITS or other improvements constructed thereon.

1.16 UNIT means the residential dwelling constructed upon a LOT.

2. ASSOCIATION. In order to provide for the administration of the SUBJECT PROPERTY and this DECLARATION, the ASSOCIATION has been organized under the Laws of the State of Florida.

2.01 ARTICLES. No amendment to the ARTICLES shall be deemed an amendment to this DECLARATION, and this DECLARATION shall not prohibit or restrict amendments to the ARTICLES, except as specifically provided in this DECLARATION.

2.02 BYLAWS. No amendment to the BYLAWS shall be deemed an amendment to this DECLARATION, and this DECLARATION shall not prohibit or restrict amendments to the BYLAWS, except as specifically provided in this DECLARATION.

2.03 Powers of the ASSOCIATION. The ASSOCIATION shall have all of the powers indicated or incidental to those contained in its ARTICLES and BYLAWS and all the authority in Chapter 720 of the Florida Statutes, as amended from time to time. In addition, the ASSOCIATION shall have the power to enforce this DECLARATION and shall have all of the powers granted to it by this DECLARATION. By this DECLARATION, the SUBJECT PROPERTY is hereby submitted to the jurisdiction of the ASSOCIATION.

2.04 Approval or Disapproval of Matters. Whenever the decision of the OWNERS is required upon any matter, whether or not the subject of an ASSOCIATION meeting, such decisions shall be expressed in accordance with the ARTICLES and the BYLAWS, except as otherwise provided in this DECLARATION.

2.05 Acts of the ASSOCIATION. Unless the approval or action of the OWNERS and / or a certain specific percentage of the BOARD is specifically required by this DECLARATION, the ARTICLES or BYLAWS, or by applicable law, all approvals or actions required or permitted to be given or taken by the ASSOCIATION shall be given or taken by the BOARD, without the consent of the OWNERS, and the BOARD may so approve an act through the proper officers of the ASSOCIATION without a specific resolution. When an approval or action of the ASSOCIATION is permitted to be given or taken, such action or approval may be conditioned in any manner the ASSOCIATION deems appropriate, or the ASSOCIATION may refuse to take or give such action or approval without the necessity of establishing the reasonableness of such conditions or refusal, except as specifically provided in this DECLARATION to the contrary.

2.06 Management and Service Contracts. The ASSOCIATION shall have the right to contract for professional management or services on such terms and conditions as the BOARD deems desirable in its sole discretion; provided, however, that any such contract shall not exceed three (3) years and shall be terminable by either party without cause and without payment of a termination or penalty fee on ninety (90) days or less written notice.

2.07 Membership. All OWNERS shall be members of the ASSOCIATION. Membership as to each LOT shall be established, and transferred, as provided by the ARTICLES and the BYLAWS.

2.08 OWNERS' Voting Rights. The votes of the OWNERS shall be established and exercised as provided In the ARTICLES and BYLAWS.

### 3. COMMON AREAS, DUTIES AND OBLIGATIONS OF THE ASSOCIATION.

3.01 Conveyance of COMMON AREAS to ASSOCIATION. By Any PERSON may-convey title to any real property owned by such PERSON, or any easement or interest therein, to the ASSOCIATION as a COMMON AREA, but the ASSOCIATION shall not be required to accept any such conveyance, and no such conveyance shall be effective to impose any obligation for the maintenance, operation or improvement of any such real property upon the ASSOCIATION, unless the BOARD expressly accepts the conveyance by executing the deed or other instrument of conveyance or by recording a written acceptance of such conveyance among the Public Records of Palm Beach County, Florida.

3.02 Use and Benefit. All COMMON AREAS shall be held by the ASSOCIATION for the use and benefit of the ASSOCIATION and the OWNERS and residents of the SUBJECT PROPERTY, and their respective guests and invitees, or the ASSOCIATION for all proper and reasonable purposes and uses for which the same are reasonably intended, subject to the terms of this DECLARATION, subject to the terms of any easement, restriction, reservation or limitation of record affecting the COMMON AREAS to the ASSOCIATION, and subject to any rules and regulations adopted by the BOARD. An easement and right for such use is hereby created in favor of all OWNERS, appurtenant to the title to their LOT.

3.03 Grant and Modification of Easements. The ASSOCIATION shall have the right to grant, modify or terminate easements over, under, upon and / or across any COMMON AREAS and the SUBJECT PROPERTY, and shall have the further right to modify, relocate or terminate existing easements in favor of the ASSOCIATION.

#### 3.04 Additions, Alterations or Improvements.

3.04.1 The ASSOCIATION shall have the right to make additions, alterations or improvements to the COMMON AREAS, and to purchase any personal property, as it deems necessary or desirable from time to time; provided, however, that the consent of a majority of the OWNERS and a majority of the INSTITUTIONAL LENDERS shall be required for any addition, alteration or improvement, or any purchase of personal property, exceeding a sum equal to two (2) months' aggregate ASSESSMENTS payable by all of the OWNERS, or if the cost of the foregoing shall in any fiscal year exceed in the aggregate a sum equal to four (4)

months' ASSESSMENTS payable by all of the OWNERS. The foregoing approval shall not be required with respect to expenses incurred in connection with the maintenance, repair or replacement of existing COMMON AREAS, or any existing improvements or personal property associated with existing COMMON AREAS. The cost and expense of any such additions, alterations or improvements to the COMMON AREAS, or the purchase of any personal property, shall be a COMMON EXPENSE. Notwithstanding anything to the contrary herein, no additions, alterations or improvements shall be made to the COMMON AREAS by the ASSOCIATION without securing the consent of the MBCA as required by the MASTER DECLARATION.

3.05 Utilities. The ASSOCIATION shall pay the cost for provision of all utilities services for the COMMON AREAS or for any other real property to be maintained or operated by the ASSOCIATION, as a COMMON EXPENSE.

3.06 Taxes. The ASSOCIATION shall pay all real and personal property taxes and municipal assessments for the COMMON AREAS or for any real property owned by the ASSOCIATION, as a COMMON EXPENSE.

3.07 Insurance. The ASSOCIATION shall purchase insurance as a COMMON EXPENSE, as follows:

3.07.1 Hazard Insurance protecting against loss or damage by fire and all other hazards that are normally covered by the standard extended coverage endorsement, and all other perils customarily covered for similar types of projects, including those covered by the standard all-risk endorsement, covering 100% of the current replacement cost of all COMMON AREAS and any Improvements situated upon any real property owned by the ASSOCIATION, excluding land, foundations, excavations and other items normally excluded from insurance coverage. The ASSOCIATION shall not use hazard insurance proceeds for any purpose other than repair, replacement or reconstruction of any damaged or destroyed property without the approval of a majority of the votes of the OWNERS and a majority of the votes of the INSTITUTIONAL LENDERS.

3.07.2 Comprehensive General Liability Insurance protecting the ASSOCIATION from claims for bodily injury, death or property damage providing for coverage of at least \$1,000,000 for any single occurrence.

3.07.3 Liability Insurance for any person who is or was a director, officer, employee or agent of the ASSOCIATION, or who is or was serving at the request of the ASSOCIATION as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise for any liability asserted against such person or incurred by such person in any such capacity, or arising out of such person's status as same.

3.07.4 Blanket Fidelity Bonds for anyone who handles or is responsible for funds held or administered by the ASSOCIATION, covering the maximum funds that will be in the custody or control of the ASSOCIATION or any managing agent, which coverage shall be at least for the sum of three (3) months aggregate ASSESSMENTS on all UNITS plus the ASSOCIATION's reserve funds.

3.07.5 Such other commercially reasonable and prudent insurance coverage as may be desired by the ASSOCIATION, such as flood insurance, errors and omissions insurance, workmen's compensation insurance or any other customary form of insurance.

3.07.6 All insurance purchased by the ASSOCIATION must include a provision requiring at least ten (10) days written notice to both the ASSOCIATION and to the INSTITUTIONAL LENDERS before the insurance can be cancelled or the coverage reduced or modified for any reason.

3.07.7 Any deductible or exclusion under the policies shall be a COMMON EXPENSE and shall not exceed \$2,500 or such other greater sum as is approved by the BOARD.

3.07.8 Upon written request, each INSTITUTIONAL LENDER shall have the right to receive a copy or certificate of the insurance purchased by the ASSOCIATION.

3.08 Default. Any OWNER or INSTITUTIONAL LENDER may pay for any utilities, taxes or municipal assessments, or insurance premiums which are not paid by the ASSOCIATION when due, or may secure new insurance upon the lapse of an insurance policy, and shall be owed immediate reimbursement therefore from the ASSOCIATION, plus interest and any costs of collection, including attorneys' fees.

3.09 Damage or Destruction. In the event any improvement within any COMMON AREA is damaged or destroyed due to fire, flood, wind or other casualty or reason, the ASSOCIATION shall restore, repair, replace or rebuild (hereinafter collectively referred to as a "repair") the damaged improvement to the condition the improvement was in immediately prior to such damage or destruction, unless otherwise approved by a majority of the of the votes of the OWNERS and a majority of the INSTITUTIONAL LENDERS. Any excess cost of repairing any improvement over insurance proceeds payable on account of any damage or destruction shall be a COMMON EXPENSE, and the BOARD shall have the right to make a special ASSESSMENT for any such expense.

3.10 Mortgage and Sale of COMMON AREAS. The ASSOCIATION shall not abandon, partition, subdivide, encumber, sell or transfer any COMMON AREAS owned by the ASSOCIATION without (i) the approval of a majority of the votes of the OWNERS and a majority of the INSTITUTIONAL LENDERS and (ii) the approval of the MBCA if required by the MASTER DECLARATION. If ingress or egress to any LOT is through any COMMON AREAS, any conveyance or encumbrance of such COMMON AREA shall be subject to an appurtenant easement for ingress and egress in favor of the OWNER(S) of such LOT(S), unless alternative ingress and egress is provided to the OWNER(S).

3.11 Maintenance of COMMON AREAS and other Property. The ASSOCIATION shall maintain in good condition at all times (i) all COMMON AREAS and (ii) any improvements situated upon any real property that is owned by the ASSOCIATION or that is to be maintained by the ASSOCIATION pursuant to this DECLARATION (including but not limited to the LOTS and the property described in Paragraph 3.13 hereof). If pursuant to any

easement the ASSOCIATION is to maintain any improvement within any real property, then the ASSOCIATION shall maintain such improvement in good condition at all times. In addition, the ASSOCIATION shall have the right to assume the obligation to operate and / or maintain any real property which is not owned or otherwise to be maintained by the ASSOCIATION if the BOARD, in its sole discretion, determines that the operation and/ or maintenance of such real property by the ASSOCIATION would be in the best interests of the residents of the SUBJECT PROPERTY. Such assumption by the ASSOCIATION of the obligation to operate and / or maintain any real property which is not owned or otherwise to be maintained by the ASSOCIATION may be evidenced by a supplement to this DECLARATION, or by a written document recorded in the Public Records of Palm Beach County, Florida and may be made in connection with an agreement with any OWNER, or any governmental authority otherwise responsible for such operation or maintenance, and pursuant to any such document the operation and / or maintenance of any such real property may be made a permanent obligation of the ASSOCIATION. The BOARD may also enter into agreements with any other PERSON, or any governmental authority, to share in the maintenance responsibility of any real property if the BOARD, in its sole and absolute discretion, determines this would be in the best interest of the OWNERS. Notwithstanding the foregoing, if any UNIT OWNER or any resident of any UNIT, or their guests or invitees, damages any COMMON AREAS or any improvement thereon, the UNIT OWNER of such UNIT shall be liable to the ASSOCIATION for the cost of repair or restoration to the extent not covered by the ASSOCIATION's insurance, if the ASSOCIATION makes a claim, and the ASSOCIATION's liability will become an assessment against the offending LOT or OWNER.

3.12 Specific Maintenance Responsibility. In addition to the foregoing, the ASSOCIATION shall be specifically responsible for the maintenance of the following portions of the SUBJECT PROPERTY, and the ASSOCIATION is hereby granted any and all such easements over those portions of the SUBJECT PROPERTY (including but not limited to the LOTS) as shall be necessary, appropriate or proper to enable the ASSOCIATION to adequately perform such maintenance:

3.12.1 Landscape Maintenance. The ASSOCIATION shall maintain (i) all landscaping within the COMMON AREAS, and (ii) all standard, non-upgraded landscaping on the LOTS (a) in the front yard of each LOT from the pavement edge of the road in front of the UNIT to the front wall of the UNIT and (b) in the unfenced, unenclosed or otherwise nonobstructed contiguous side yard of each LOT extended back at most to that point; on the LOT which is parallel to either the rear wall of the UNIT or such other location on the UNIT as can be logically considered to structurally offset the rear and side yards of the LOT (the fenced, enclosed or otherwise obstructed contiguous side yard of each LOT shall be considered to be a part of the rear yard of each LOT, and included within the maintenance responsibility of the OWNERS). The ASSOCIATION shall also maintain and operate the underground sprinkler system which irrigates those areas of the LOT within which the ASSOCIATION is to maintain the landscaping.

3.12.2 Roads. The ASSOCIATION shall maintain all roads within the SUBJECT PROPERTY and any streetlighting within the SUBJECT PROPERTY, including any utilities services and apparatus used in connection with the streetlighting.

3.12.3 Sidewalks. The ASSOCIATION shall maintain the common sidewalks within the SUBJECT PROPERTY, but not any sidewalk which exclusively serves only one (1) LOT.

3.12.4 Walls and Fences. The ASSOCIATION shall maintain all walls and fences installed by the DECLARANT (excluding gates) and located within any portion of the SUBJECT PROPERTY, including but not limited to the lots. Such maintenance shall include, but shall not be limited to painting such walls and fences on a fixed periodic basis, as deemed necessary by the BOARD. All walls and fences not installed by the DECLARANT shall be maintained by the LOT OWNER of the LOT upon which same is situate. No LOT OWNER shall install any such wall or fence without first securing the written consent of the ASSOCIATION and MBCA.

3.12.5 Exterior UNIT Walls and Roofs. All maintenance and upkeep of the exterior walls and roofs of a UNIT shall be the responsibility of the LOT OWNER. The LOT OWNER shall paint the exterior walls, roofs, front doors, garage doors, etc. (if the roof is of a material that requires painting) and power wash the home as deemed necessary by the Board."

3.13 Operation and Maintenance of Property Other than the SUBJECT PROPERTY. The ASSOCIATION shall, as the BOARD deems appropriate, have the right, but not the obligation, to operate and / or maintain property not included within the SUBJECT PROPERTY, if the BOARD determines that same is in the best interest and is for the common good of the LOT OWNERS (by way of example and not as a limitation, assuming the obligation to operate and / or maintain a public or private road right-of-way and / or any landscaping, sprinkler system, sidewalk, path or other improvements located within or adjacent to any such public or private road right-of-way). "Operation and maintenance" of such property shall be deemed to include, but shall not be limited to, (i) installation and construction of improvements on, under or through such property, (ii) maintenance, repair and alteration of any improvements located on, under or through such property, and (iii) the payment of any costs, expenses, fees or other charges incurred by the ASSOCIATION incidental to same. Notwithstanding anything to the contrary in this DECLARATION, the ARTICLES or the BYLAWS, any costs, expenses, fees or other charges incurred by the ASSOCIATION incidental to its operation and / or maintenance of the property other than the SUBJECT PROPERTY shall be a COMMON EXPENSE.

4. Easements. Each of the following easements are hereby created, which shall run with the land and, notwithstanding any of the other provisions of this DECLARATION, may not be substantially amended or revoked in such a way as to unreasonably interfere with their proper and intended uses and purposes, and each shall survive the termination of this DECLARATION:

4.01 Easements for Pedestrian and Vehicular Traffic. Easements for pedestrian traffic over, through and across sidewalks, paths, lanes and walks, as the same may from time to time exist upon the COMMON AREAS and be intended for such purpose; and for pedestrian and vehicular traffic and parking over, through, across and upon such portion of the COMMON AREAS as may from time to time be paved and intended for such purposes, the same being for the use and benefit of the OWNERS and the residents of the SUBJECT PROPERTY, and their guests and invitees, and the INSTITUTIONAL LENDERS.

4.02 Perpetual Nonexclusive Easement in COMMON AREAS. The COMMON AREAS shall be, and the same are hereby declared to be, subject to a perpetual nonexclusive easement in favor of all OWNERS and residents of the SUBJECT PROPERTY from time to time, and their guests and Invitees, and INSTITUTIONAL LENDERS for all proper and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended.

4.03 Service and Utility Easements. Easements in favor of governmental and quasi-governmental authorities, utilities companies (including but not limited to the providers of electric, telephone, telecommunications, water, sewer, gas, drainage and similar services), cable television and communications companies, Internet providers, security/surveillance system companies, ambulance or emergency vehicle companies and mail carrier and courier services (i) over and across all roads existing from time to time with the SUBJECT PROPERTY, and (ii) over, under, upon and across the COMMON AREAS, all as may be reasonably required to permit the foregoing providers, and their agents and employees, to undertake their respective authorized services to and for the SUBJECT PROPERTY and the OWNERS. Also, easements over, under, upon and across those portions of the SUBJECT PROPERTY as may be required for the installation, maintenance, repair and provision of utilities services, equipment and fixtures in order to adequately serve the SUBJECT PROPERTY or any LOT, including but not limited to electricity, telephones, sewer, water, lighting, irrigation, drainage, television antenna, cable television facilities, electronic security and Internet; and shall only be for utilities services actually constructed, or reconstructed, and for the maintenance thereof. An OWNER shall do nothing on his LOT which interferes with or impairs the utilities services using these easements. The BOARD or its designee shall have a right of access to each LOT and UNIT to inspect, maintain, repair or replace the utilities service facilities contained under the LOT and to remove, at OWNER's expense, any improvements interfering with or impairing the utilities services or easements reserved in this DECLARATION; provided such right of access shall not unreasonably interfere with the OWNER's permitted use of the LOT and, except in the event of an emergency, entry into any UNIT shall be made with reasonable notice to the OWNER.

4.04 Service and Maintenance Easement. If any UNIT is located within four (4) feet of the boundary line of any LOT, an easement in favor of the OWNER of such UNIT shall exist into the LOTS or COMMON AREAS, as the case may be, for the purpose of servicing and maintaining the UNIT. Such easement shall include that portion of the adjacent LOT or COMMON AREA as is within four (4) feet of the LOT for which maintenance and service is sought, and such other portions of the LOTS and COMMON AREAS as are reasonably necessary to gain access to the LOT for such service and maintenance purposes. The OWNER of such UNIT for which service or maintenance is sought shall not be liable for any damage or destruction to any landscaping within any such easement area which is caused in connection with the reasonable maintenance and servicing of his or her UNIT. Except in the case of an emergency, prior to exercising his or her rights hereunder, a LOT OWNER shall give notice to the adjacent LOT OWNER of his or her intention to exercise his or her easement rights hereunder, and a LOT OWNER exercising his or her easement rights hereunder shall exercise such rights only at reasonable times and in a reasonable and prudent manner.

4.05 Encroachments. If any portion of the COMMON AREAS encroaches upon any LOT; if any UNIT encroaches upon any LOT or upon any portion of the COMMON AREAS; or if any encroachment shall hereafter occur as a result of (i) construction or reconstruction of any improvements; (ii) settling or shifting of any improvements; (iii) any addition, alteration or repair to the COMMON AREAS made by or with the consent of the ASSOCIATION, (iv) any repair or restoration of any improvements (or any portion thereof) or any UNIT after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any UNIT or the COMMON AREAS; or (v) any nonpurposeful or non-negligent act of an OWNER except as may be authorized by the BOARD, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the improvements shall stand.

4.06 Easements for overhanging troughs or gutters, downspouts and roof eaves, the discharge therefrom of rainwater and the subsequent flow thereof over the LOTS and the COMMON AREAS and easements for the drainage and flowage of surface water from one LOT to other LOTS and the COMMON AREAS.

4.07 Additional Easements. The ASSOCIATION, on its behalf and on behalf of all OWNERS, each shall have the right to (1) grant and declare additional easements over, upon, under and / or across the COMMON AREAS in favor of the OWNERS and residents of the SUBJECT PROPERTY and their guests and invitees, or in favor of any other person, entity, public or quasi-public authority or utility company, or (ii) modify, relocate, abandon or terminate existing easements within or outside of the SUBJECT PROPERTY in favor of the ASSOCIATION and / or the OWNERS and residents of the SUBJECT PROPERTY, and their guests and invitees, or in favor of any PERSON, public or quasi-public authority or utility company, as the ASSOCIATION may deem desirable for the proper operation and maintenance of the SUBJECT PROPERTY, or any portion thereof, or for the health, safety or welfare of the OWNERS, or for any other reason or purpose. So long as such additional easements, or the modification, relocation or abandonment of existing easements, will not unreasonably and adversely interfere with the use of LOTS for dwelling purposes, no joinder of any OWNER or INSTITUTIONAL LENDER shall be required or, if same would unreasonably and adversely interfere with the use of any LOT for dwelling purposes, only the joinder of the OWNERS and INSTITUTIONAL LENDERS of LOTS so affected shall be required. To the extent required, all OWNERS hereby irrevocably appoint the ASSOCIATION as their attorney-in-fact for the foregoing purposes.

4.08 Easements in Favor of ASSOCIATION. The ASSOCIATION, by and through its employees, agents and contractors, is hereby granted a perpetual easement and right-of-entry through, over and upon each LOT and UNIT for the purpose of discharging and performing any duty imposed or exercising any right granted by this DECLARATION, including, but not limited to (i) the duty or right of maintenance or replacement imposed upon either the ASSOCIATION or upon any OWNER and (ii) the reasonable right-of-entry to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the SUBJECT PROPERTY.

5. USE RESTRICTIONS.

5.01 Garages. No garage shall be erected which is separate from a UNIT. No garage shall be permanently enclosed, and no portion of a garage shall be converted into a living space or storage area. All garage doors shall remain closed when not in use.

5.02 Outside Storage of Personal Property. The personal property of any resident of the SUBJECT PROPERTY shall be kept inside the resident's UNIT, except for approved patio furniture and other approved personal property commonly kept outside. Such approval shall be granted at the sole discretion of the BOARD.

5.03 Portable Buildings. No portable, storage, temporary or accessory buildings or structures, sheds, or tents, shall be erected, constructed or located upon any LOT for storage or otherwise, without the prior written consent of the ASSOCIATION.

5.04 Garbage and Trash. Each OWNER shall regularly pick up all garbage, trash, refuse or rubbish on the OWNER's LOT. Garbage, trash, refuse or rubbish that is required to be placed at the front of the LOT in order to be collected may be placed and kept at the front of the LOT after 7:00 p.m. on the day before the scheduled day of collection, and any trash facilities must be removed on the collection day. All garbage, trash, refuse or rubbish must be placed in appropriate trash facilities or bags. All containers, dumpsters or garbage facilities shall be stored either inside a UNIT or within a fenced or enclosed area of the LOT, screened from view and kept in a clean and sanitary condition. No noxious or offensive odors shall be permitted. In the event that an approved construction project requires the placement of a temporary dumpster, it shall be located on the driveway of LOT, after receiving the express written permission of the ASSOCIATION, in accordance with the requirements imposed by the BOARD and the rules and regulations of the MBCA.

5.05 Vehicles. Only automobiles, vans constructed as private passenger vehicles with permanent rear seats and side windows, and other vehicles manufactured and commonly used as private passenger vehicles may be parked within the SUBJECT PROPERTY overnight without the prior written consent of the ASSOCIATION, unless kept within an enclosed garage. In particular and without limitation, no vehicle shall be parked outside of a UNIT overnight without the prior written consent of the ASSOCIATION if commercial lettering or signs are painted to or affixed to the vehicle, or if commercial equipment is placed upon or within the vehicle, or if the vehicle is a truck, limousine, recreational vehicle, camper, trailer or other than a private passenger vehicle as in this Paragraph 5.05 of the DECLARATION. The foregoing restrictions shall not be deemed to prohibit the temporary daytime parking of commercial vehicles while making delivery to or from, or while used in connection with providing services to, the SUBJECT PROPERTY. All vehicles parked within the SUBJECT PROPERTY must be in good condition, and no vehicle which is unlicensed or which cannot operate on its own power shall remain within the SUBJECT PROPERTY for more than 24 hours, and no major repair of any vehicle shall be made on the SUBJECT PROPERTY. Motorcycles are permitted; however, all permitted vehicles must be equipped with appropriate noise muffling equipment so that the operation of same does not create an unreasonable annoyance to the residents of the SUBJECT PROPERTY. The ASSOCIATION shall have the

ASSOCIATION may withhold approval for construction of swimming pools due to nuisance and related considerations (such as the likelihood of interference with other residents of the SUBJECT PROPERTY during construction). The ASSOCIATION shall notify the OWNER of its approval or disapproval by written notice within 30 days after request for such consent is made in writing to the ASSOCIATION, and in the event the ASSOCIATION fails to disapprove any request within such 30 day period, which 30 day period begins when the ASSOCIATION has received all documentation requested by the BOARD / ARC from the OWNER, the consent shall be deemed approved and upon request the ASSOCIATION shall give written notice of such approval. In consenting to any plans or specifications, the ASSOCIATION may condition such consent upon changes being made. If the ASSOCIATION consents to any plans and specifications, the OWNER may proceed to make the alteration, addition, improvement, or change in strict conformance with the plans and specifications approved by the ASSOCIATION, and subject to any conditions of the ASSOCIATION's approval.

5.18.3 No Liability. The ASSOCIATION shall not be liable to any OWNER in connection with the approval or disapproval of any alteration, addition, improvement, or change. Furthermore, any approval of any plans or specifications by the ASSOCIATION shall not be deemed to be a determination that such plans or specifications are complete or do not contain defects, or in fact meet any standards, guidelines and / or criteria of the ASSOCIATION, or are in fact architecturally or aesthetically appropriate, or comply with any applicable governmental requirements, and the ASSOCIATION shall not be liable for any deficiency, or any injury resulting from any deficiency, in such plans and specifications.

5.18.4 Remedy for Violations. In the event this section is violated in that any alteration, addition, improvement, or change is made without first obtaining the approval of the ASSOCIATION, or is not made in strict conformance with any approval granted by the ASSOCIATION, the ASSOCIATION shall specifically have the right to demand that an OWNER stop, remove and / or alter any alteration, addition, improvement or change in a manner which complies with the requirements of the ASSOCIATION, and the ASSOCIATION may pursue injunctive relief or any other legal or equitable remedy available to the ASSOCIATION in order to accomplish such purposes. If the ASSOCIATION is forced to engage an attorney to take any action against an OWNER, regardless of whether litigation is filed, the ASSOCIATION shall recover its attorney's fees and costs as an ASSESSMENT against the offending OWNER and offending OWNER's LOT. Any action to enforce this Section must be commenced within one (1) year after the date of the violation. The foregoing shall be in addition to any other remedy set forth herein for violations of this DECLARATION.

5.18.5 Notwithstanding anything to the contrary herein, nothing contained in this Paragraph 5.18 of the DECLARATION shall be construed in such a manner as to limit the rights of the MBCA or the Master Design Review Committee more particularly described in the MASTER DECLARATION, and the ASSOCIATION shall accept any rights and / or responsibilities delegated to it by the MBCA or the aforesaid Master Design Review Committee as required by the MASTER DECLARATION.

5.19 Rules and Regulations. The BOARD may adopt additional reasonable rules and regulations relating to the use and maintenance of the SUBJECT PROPERTY, and

rules and regulations relating to the recreational facilities within the SUBJECT PROPERTY may be posted at such recreational facilities. Copies of such rules and regulations and amendments shall be furnished by the ASSOCIATION to any OWNER upon request.

5.20 Waiver. The ASSOCIATION shall have the right to waive the application of one or more of these restrictions, or to permit a deviation from these restrictions, as to any LOT where, in the discretion of the BOARD, circumstances exist which justify such waiver or deviation. In the event of any such waiver or permitted deviation, or in the event any party fails to enforce any violation of these restrictions, such actions or inactions shall not be deemed to prohibit or restrict the right of the ASSOCIATION, or any other PERSON having the right to enforce these restrictions, from insisting upon strict compliance with respect to all other LOTS, nor shall any such actions be deemed a waiver of any of the restrictions contained herein as same may be applied in the future.

5.21 Residential Purposes and Occupancy. UNIT's shall be used for Residential Purposes only. No trade, business, profession or other type of commercial activity may be conducted on any LOT; provided, however, rental of UNIT's for residential occupancy shall not be deemed commercial activity. Moreover, this provision shall not prevent an OWNER from utilizing a home office, as long as the office is not used for visits by clients or customers and providing that the office does not have an adverse effect upon neighbors, the neighborhood.

5.21.1 Leases: All leases of a UNIT shall be in writing utilizing a FAR/BAR approved lease agreement and / or addendum to the lease agreement, application fee, and if requested a background check authorization, and shall specifically provide (i) that the rights of the Lessee(s) and all others residing in the residence thereunder are subject to the terms and provisions of this Declaration, (ii) that the ASSOCIATION shall have the right to terminate the lease upon default by the lessee or any other tenant residing in the UNIT in observing any of the provisions of this Declaration, the Articles of Incorporation or By-Laws, the rules and regulations of the ASSOCIATION or any other applicable provisions of any agreement, document or instrument governing the ASSOCIATION or administered by the ASSOCIATION, and (iii) that the ASSOCIATION shall have the right to collect all rental payments due to the OWNER and to apply same against unpaid assessments if, and to the extent that, the OWNER is in default in the payment of assessments. Copies of all leases of UNITS shall be provided to the ASSOCIATION. No lease of a UNIT shall be for a term of less than six (6) months and no lease of a UNIT shall be for a term of more than two (2) years. No UNIT may be leased more than two (2) times in any consecutive twelve (12) month period. The ASSOCIATION shall not be bound by these lease terms for homes that the ASSOCIATION has foreclosed on. The BOARD shall have the right to promulgate Rules further restricting or regulating leasing. The leasing of UNITS shall be subject to the following additional restrictions:

5.21.2 No one shall be permitted to lease a UNIT without the prior approval of the BOARD. Additionally, the subleasing of a UNIT or the renting of rooms is strictly prohibited. The BOARD shall have the right to adopt and enforce reasonable Rules and Regulations with respect to the leasing of UNITS, including, without limitation, the right to collect a reasonable charge for the processing of a lease agreement or renewals thereof, to the extent permitted by law, to be paid by the lessee(s) seeking such approval. This Section shall also

apply to renewals of leases. No lease shall be amended or modified without the BOARD's prior written approval.

5.21.3 OWNERS are required to provide to the ASSOCIATION the OWNER'S current mailing address, together with the names of all those intending to reside in the UNIT and such other information and documentation as may be required by the BOARD. The ASSOCIATION may also require a personal interview with the proposed tenant(s) or lessee(s) and all proposed occupants of the UNIT with the ASSOCIATION or its designee. Within thirty (30) days from the date of receipt of all information required by the ASSOCIATION, the ASSOCIATION shall either approve or disapprove the proposed lease or lease renewal, in writing, and shall notify the OWNER of its decision. In the event the ASSOCIATION shall fail to approve or disapprove the lease within thirty (30) days, the failure to act as aforesaid shall be considered an approval of the lease of the UNIT.

5.21.4 Lease Security Deposit: The ASSOCIATION shall be permitted to require as a condition to the lease or rent of a UNIT, that the OWNER deposit into an escrow account maintained by the ASSOCIATION, a security deposit to protect against damages to the common areas or ASSOCIATION Property and to offset any unpaid assessments that are over thirty (30) days late during the term of the lease, to the extent permitted by law. The maximum amount of the security deposit shall not exceed two-thousand (\$2,000) dollars or such amount as permitted by law.

5.21.5 Guests: Notwithstanding any provision to the contrary herein, any person occupying a UNIT who does not pay rent or some other consideration for the right to occupy the UNIT shall be deemed a guest. Any guest occupying a UNIT in the absence of the OWNER in excess of thirty (30) days during any calendar year shall be subject to screening and approval in the same manner as a lessee.

5.21.6 Each lease request is to be prepared and submitted to the ASSOCIATION on either a standard Lease Form or Lease Addendum.

5.21.7 ASSOCIATION re-approval will be required of all tenants intending to continue living in the same residence after a two (2) year period has been completed. Ninety (90) days prior to the completion of the two (2) years of residence, all of the tenants must submit documentation to the ASSOCIATION indicating their intention to continue leasing the same UNIT and must make themselves available for interviews, new background checks and any other conditions as requested by the ASSOCIATION.

5.21.8 The lease of any UNIT which is not approved, or which is disapproved pursuant to the terms of this DECLARATION shall be void unless subsequently, approved in writing by the ASSOCIATION. The ASSOCIATION shall have the right to remove any occupant (s) and personal belongings by injunctive relief or otherwise should any provisions of the DECLARATION or Rules and Regulations be violated.

5.22 MASTER DECLARATION Use Restrictions. In addition to the use restrictions set forth in this Paragraph 5, any activity, condition or use prohibited or limited under the MASTER DECLARATION, although not reiterated herein, shall be deemed prohibited or limited in the manner set forth in the MASTER DECLARATION, as if fully set forth herein.

6. ASSESSMENT FOR COMMON EXPENSES.

6.01 Each OWNER of a LOT shall be responsible for the payment to the ASSOCIATION of ASSESSMENTS for each LOT owed by the OWNER, which amount shall be assessed to the OWNER as described below. In addition, each OWNER shall be responsible for the payment to the ASSOCIATION of any ASSESSMENTS owned by the prior OWNER, except as provided in Paragraph 7.01.6 of this DECLARATION.

6.02 Prior to the beginning of each calendar year, the BOARD shall adopt a budget for such fiscal year which shall estimate all of the COMMON EXPENSES to be incurred by the ASSOCIATION during the calendar year. The BOARD shall then establish the ASSESSMENT for each LOT, and shall notify each OWNER in writing of the amount, frequency, and due dates of the ASSESSMENT. The BOARD may modify the budget in accordance with the provisions of this DECLARATION, the ARTICLES or the BYLAWS, and pursuant to the revised budget or otherwise, the BOARD may, upon written notice to the OWNERS, change the amount, frequency and / or due dates of the ASSESSMENTS. If the expenditure of funds for COMMON EXPENSES is required in addition to funds produced by ASSESSMENTS, the BOARD may make special ASSESSMENTS, which shall be levied in the same manner as hereinbefore provided for regular ASSESSMENTS, and shall be payable in the manner determined by the BOARD, as stated in the notice of any special ASSESSMENTS. In the event any ASSESSMENTS are made payable in equal periodic payments, as provided in the notice from the ASSOCIATION, such periodic payments shall automatically continue to be due and payable in the same amount and frequency unless and until (i) the notice specifically provides that the periodic payments will terminate or change upon the occurrence of a specified event or date or the payment of the specified amount, or (ii) the ASSOCIATION notifies the OWNER in writing of a change in the amount and / or frequency of the periodic payments. In no event shall any ASSESSMENTS be due less than ten (10) days from the date of the notification of such ASSESSMENTS.

6.03 SPECIAL ASSESSMENTS In addition to the Common and Individual ASSESSMENT's authorized, the BOARD may levy, in any calendar year, a special ASSESSMENT on a one time basis for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a structure or capital improvement upon the Common Areas, including fixtures and personal property related thereto, or for defraying any other extraordinary Operating Expense of the ASSOCIATION, including shortfalls in Common ASSESSMENT's; provided, however, any such special ASSESSMENT in excess of Twenty-Five Thousand Dollars (\$25,000.00) shall require the consent of a majority of the votes of OWNERS present and entitled to vote, in person or by proxy, at a duly called special or annual meeting of OWNERS

6.04 Notice for any SPECIAL ASSESSMENT Written notice of any meeting of Members called for the purpose of authorizing a Special ASSESSMENT shall be sent to all Members not less than ten (10) days, nor more than sixty (60) days, in advance of the meeting. If the required quorum is not present, such meeting may be rescheduled, subject to the same notice requirement. No such subsequent meeting shall be held more than sixty (90) days following the preceding scheduled meeting.

6.05 Proportionate Share of ASSESSMENT COMMON ASSESSMENTS and SPECIAL ASSESSMENTS provided shall be allocated and assessed equally among all LOTS. Individual ASSESSMENT or special ASSESSMENT shall be payable within thirty (30) days after the OWNER shall have been notified thereof, unless any such ASSESSMENT is deemed by the ASSOCIATION to be of an emergency nature, in which case such ASSESSMENT shall be payable within ten (10) days after notice thereof.

## 7. DEFAULT.

### 7.01 Monetary Defaults and Collection of ASSESSMENT's.

7.01.1 Late Fees and Interest. If any ASSESSMENT is not paid within ten (10) days after the due date, the ASSOCIATION shall have the right to charge the defaulting OWNER a late fee of the maximum amount allowable by law, plus interest at the then highest rate of interest allowable by law from the due date until paid. If there is no due date applicable to any particular ASSESSMENT, then the ASSESSMENT shall be due ten (10) days after written demand by the ASSOCIATION.

7.01.2 Acceleration of ASSESSMENTS. If any OWNER is in default in the payment of any ASSESSMENT owed to the ASSOCIATION for more than thirty (30) days after written demand by the ASSOCIATION, the ASSOCIATION upon written notice to the defaulting OWNER shall have the right to accelerate and require such defaulting OWNER to pay ASSESSMENTS to the ASSOCIATION for the next twelve (12) month period, based upon the then existing amount and frequency of ASSESSMENTS. In the event of such acceleration, the defaulting OWNER shall continue to be liable for any increases in the regular ASSESSMENTS, for all special ASSESSMENTS, and / or for all other ASSESSMENTS payable to the ASSOCIATION.

7.01.3 Lien for ASSESSMENTS. The ASSOCIATION has a lien on each LOT for unpaid ASSESSMENTS owed to the ASSOCIATION by the OWNER of such LOT, and for late fees and interest, and for reasonable attorneys' fees incurred by the ASSOCIATION incident to the collection of the ASSESSMENT or enforcement of the lien, and all sums advanced and paid by the ASSOCIATION for taxes and payment on account of superior first mortgages, other liens or encumbrances in order to preserve and protect the ASSOCIATION's lien. The lien is effective from and after recording a claim of lien in the public records in the county in which the LOT is located, which shall be a continuing lien upon the property, stating the description of the LOT, the name of the record OWNER, and the amount due as of the recording of the claim of lien. A recorded claim of lien shall secure all sums set forth in the claim of lien, together with all ASSESSMENTS or other monies owed to the ASSOCIATION by the OWNER until the lien is satisfied. The lien is in effect until all sums secured by it have been

fully paid or until the lien is barred by law. The claim of lien must be signed and acknowledged by an officer or agent of the ASSOCIATION. Upon payment in full of all sums secured by the lien, the person making the payment is entitled to a satisfaction of the lien.

7.01.4 Collection and Foreclosure. The ASSOCIATION may bring an action in its name to foreclose a lien for ASSESSMENTS in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid ASSESSMENTS without waiving any claim of lien, and the applicable OWNER shall be liable to the ASSOCIATION for all costs and expenses incurred by the ASSOCIATION in connection with the collection of any unpaid ASSESSMENTS, and the filing, enforcement, and / or foreclosure of the ASSOCIATION'S lien, including reasonable attorneys' fees, and all sums paid by the ASSOCIATION for taxes and on account of any other mortgage, lien, or encumbrance in order to preserve and protect the ASSOCIATION'S lien. The BOARD is authorized to settle and compromise the ASSOCIATION'S lien if the BOARD deems a settlement or compromise to be in the best interest of the ASSOCIATION.

7.01.5 Rental and Receiver. If an OWNER remains in possession of his UNIT and the claim of lien of the ASSOCIATION against his UNIT is foreclosed, the court, in its discretion, may require the OWNER to pay a reasonable rental for the UNIT, and the ASSOCIATION is entitled to the appointment of a receiver to collect the rent.

7.01.6 Subordination of Lien. Where a first mortgagee obtains title to a LOT pursuant to the foreclosure of a first mortgage of record of an INSTITUTIONAL LENDER, or where an INSTITUTIONAL LENDER accepts a deed to a LOT in lieu of foreclosure of the first mortgage of record of such lender, the first mortgagee, its successors and assigns, shall not be liable for any ASSESSMENTS or for other monies owed to the ASSOCIATION which are chargeable to the former OWNER of the LOT and which became due prior to acquisition of title as a result of the foreclosure or by the acceptance of a deed in lieu thereof except in accordance with Chapter 720 of the Florida Statutes, as amended from time to time. The unpaid ASSESSMENTS or other monies are COMMON EXPENSES collectable from all of the OWNERS, including such acquirer and his successors and assigns. The new OWNER, from and after the time of acquiring such title, shall be liable for payment of all future ASSESSMENTS and such other expenses as may be assessed to the OWNER's LOT. Any other person or entity who acquires a LOT; other than a first mortgagee by foreclosure, or a first mortgagee who accepts a deed in lieu thereof, including without limitation persons acquiring title by sale, gift, devise, operation of law or by purchase at a judicial or tax sale, shall be liable for all unpaid ASSESSMENTS and other monies due and owing by the former OWNER to the ASSOCIATION, and shall not be entitled to occupancy of the UNIT or enjoyment of the COMMON AREAS until such time as all unpaid ASSESSMENTS and other monies have been paid in full.

7.01.7 Assignment of Claim and Lien Rights. The ASSOCIATION, acting through its BOARD, shall have the right to assign its claim and lien rights for the recovery of any unpaid ASSESSMENTS and any other monies owed to the ASSOCIATION, to any third party.

7.01.8 Unpaid ASSESSMENTS - Certificate. Within 15 days after

written request by any OWNER or any INSTITUTIONAL LENDER holding or making a mortgage encumbering any LOT, the ASSOCIATION shall provide the OWNER or INSTITUTIONAL LENDER a written certificate as to whether or not the OWNER of the LOT is in default with respect to the payment of ASSESSMENTS or with respect to compliance with the terms and provisions of this DECLARATION, and any person or entity who relies on such certificate in purchasing or in making a mortgage loan encumbering any LOT shall be protected thereby.

7.01.9 Application of Payments. Any payments made to the ASSOCIATION by any OWNER shall first be applied towards any sums advanced and paid by the ASSOCIATION for taxes and payment on account of superior mortgages, liens or encumbrances which may have been advanced by the ASSOCIATION in order to preserve and protect its lien; next toward reasonable attorneys' fees incurred by the ASSOCIATION incidental to the collection of assessments and other monies owed to the ASSOCIATION by the OWNER and / or for the enforcement of its lien; next towards interest on any ASSESSMENTS or other monies due to the ASSOCIATION, as provided herein; and next towards any unpaid ASSESSMENTS owed to the ASSOCIATION, in the inverse order that such ASSESSMENTS were due.

7.02 Non-Monetary Defaults. In the event of a violation by any OWNER or any tenant of an OWNER, or any person residing with them, or their guests or invitees, (other than the non-payment of any ASSESSMENT or other monies) of any of the provisions of this DECLARATION, the ARTICLES, the BYLAWS or the Rules and Regulations of the ASSOCIATION, the ASSOCIATION shall notify the OWNER and any tenant of the OWNER of the violation, by written notice. If such violation is not cured as soon as practicable and in any event within seven (7) days after such written notice, or if the violation is not capable of being cured within such seven (7) day period, if the OWNER or tenant fails to commence and diligently proceed to completely cure such violation as soon as practicable within seven (7) days after written notice by the ASSOCIATION, or if any similar violation is thereafter repeated, the ASSOCIATION may, at its option:

7.02.1 Impose a fine against the OWNER or tenant as provided in Paragraph 9.03; and / or

7.02.2 Commence an action to enforce the performance on the part of the OWNER or tenant, or for such equitable relief as may be necessary under the circumstances, including injunctive relief; and / or

7.02.3 Commence an action to recover damages; and / or

7.02.4 Take any and all actions reasonably necessary to correct such failure, which action may include, where applicable, but is not limited to, removing any addition, alteration, improvement or change which has not been approved by the ASSOCIATION, or performing any maintenance required to be performed by this DECLARATION.

All expenses incurred by the ASSOCIATION in connection with the correction of any failure, plus a service charge of ten (10%) percent of such expenses, and all expenses incurred by the ASSOCIATION in connection with any legal proceedings to enforce this DECLARATION, including reasonable attorneys' fees, shall be assessed against the applicable OWNER, and shall be due upon written demand by the ASSOCIATION. The ASSOCIATION shall have a lien for any such ASSESSMENT and any interest, costs or expenses associated therewith, including attorneys' fees incurred in connection with such ASSESSMENT, and may take such action to collect such ASSESSMENT or foreclose said lien as in the case and in the manner of any other ASSESSMENT as provided above. Any such lien shall only be effective from and after the recording of a claim of lien in the public records of the County in which the SUBJECT PROPERTY is located.

7.03 Fines. The ASSOCIATION shall have the right to levy fines, in accordance with Chapter 720 of the Florida Statutes, as amended from time to time, of up to \$100 per violation, against any OWNER or any tenant, guest, or invitee. A fine may be levied for each day of a continuing violation, with a single notice and opportunity for hearing. Fines may exceed \$1,000 in the aggregate. Any fine levied against an OWNER shall be deemed an ASSESSMENT, and if not paid when due all of the provisions of this DECLARATION relating to the late payment of ASSESSMENTS shall be applicable. If any fine is levied against a an OWNER due to the actions of his tenant is not paid within 10 days after same is due, the ASSOCIATION shall have the right to evict the tenant pursuant to Paragraph 7.06 of this DECLARATION.

7.04 Negligence. An OWNER shall be liable and may be assessed by the ASSOCIATION for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, but-only to the extent that such expense is not met by the proceeds of insurance carried by the ASSOCIATION. Such liability shall include any increase in insurance rates occasioned by use, misuse, occupancy or abandonment of a LOT or UNIT, or the COMMON AREAS. The ASSOCIATION shall not be required to file an insurance claim and may charge the OWNER for the full amount of the damages. Additionally, any fine imposed by the Board in accordance with the Bylaws or other expense of the ASSOCIATION incurred as a result of any OWNER'S failure to comply with the provisions of the DECLARATION shall be charged to such OWNER as an Individual ASSESSMENT.

7.05 Responsibility of an OWNER for Occupants, Tenants, Guests, and Invitees. Each OWNER shall be responsible for the acts and omissions, whether negligent or willful, of any PERSON residing in his UNIT, and for all guests and invitees of the OWNER or any such resident, and in the event the acts or omissions of any of the foregoing shall result in any damage to the COMMON AREAS, or any liability to the ASSOCIATION, the OWNER shall be assessed for same as in the case of any other ASSESSMENT, limited where applicable to the extent that the expense or liability is not met by the proceeds of insurance carried by the ASSOCIATION. Furthermore, any violation of any of the provisions of this DECLARATION, of the ARTICLES, or the BYLAWS, by any resident of any UNIT, or any guest or invitee of an OWNER or any resident of a UNIT, shall also be deemed a violation by the OWNER, and shall subject the OWNER to the same liability as if such violation was that of the OWNER.

7.06 Right of ASSOCIATION to Evict Tenants, Occupants, Guests and Invitees. With respect to any tenant or any PERSON present in any UNIT or any portion of the SUBJECT PROPERTY, other than an OWNER and the members of his immediate family permanently residing with him in the UNIT, if such PERSON shall materially violate any provision of this DECLARATION, the ARTICLES, or the BYLAWS, or shall create a nuisance or an unreasonable and continuous source of annoyance to the residents of the SUBJECT PROPERTY, or shall willfully damage or destroy any COMMON AREAS or personal property of the ASSOCIATION, then upon written notice by the ASSOCIATION such PERSON shall be required to immediately leave the SUBJECT PROPERTY and if such PERSON does not do so, the ASSOCIATION is authorized to commence an action to evict such tenant or compel the PERSON to leave the SUBJECT PROPERTY and, where necessary, to enjoin such PERSON from returning. The expense of any such action, including attorneys' fees, may be assessed against the applicable OWNER, and the ASSOCIATION may collect such ASSESSMENT and have a lien for same as elsewhere provided. The foregoing shall be in addition to any other remedy of the ASSOCIATION.

7.07 No Waiver. The failure of the ASSOCIATION to enforce any right, provision, covenant or condition which may be granted by this DECLARATION, the ARTICLES, or the BYLAWS, shall not constitute a waiver of the right of the ASSOCIATION to enforce such right, provision, covenant or condition in the future.

7.08 Rights Cumulative. All rights, remedies and privileges granted to the ASSOCIATION pursuant to any terms, provisions, covenants or conditions of this DECLARATION, the ARTICLES or the BYLAWS, shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the ASSOCIATION thus exercising the same from executing such additional remedies, rights or privileges as may be granted or as it might have by law.

7.09 Enforcement By or Against other Persons. In addition to the foregoing, this DECLARATION may be enforced by the ASSOCIATION, by any procedure at law or in equity against any PERSON violating or attempting to violate any provision herein, to restrain such violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce this DECLARATION shall be borne by the PERSON against whom enforcement is sought, provided such proceeding results in a finding that such PERSON was in violation of this DECLARATION. If the ASSOCIATION is forced to engage an attorney to take any action against an OWNER, regardless of whether litigation is filed, the ASSOCIATION shall recover its attorney's fees and costs as an assessment against the offending OWNER and offending OWNER's LOT. In addition to the foregoing, any OWNER shall have the right to bring an action to enforce this DECLARATION against any PERSON violating or attempting to violate any provision herein, to restrain such violation or to require compliance with the provisions contained herein, but no OWNER shall be entitled to recover damages or to enforce any lien created herein as a result of a violation or failure to comply with the provisions contained herein by any PERSON, and the prevailing party in any such action shall be entitled to recover its reasonable attorneys' fees.

8. TERM OF DECLARATION. All of the foregoing covenants, conditions, reservations and restrictions shall run with the land and continue and remain in full force and effect at all times as against all OWNERS, their successors, heirs or assigns, regardless of how the OWNERS acquire title, for a period of fifty (50) years from the date of this DECLARATION, unless within such time, one hundred (100%) percent of the OWNERS and INSTITUTIONAL LENDERS execute a written instrument declaring a termination of this DECLARATION, as it may have been amended from time to time (except that, notwithstanding the preceding provision, the DECLARATION shall not be terminated by the OWNERS and INSTITUTIONAL LENDERS during the first twenty (20) years of the term of this DECLARATION). After such fifty (50) year period, unless sooner terminated as provided above, these covenants, conditions, reservations and restrictions shall be automatically extended for successive periods of ten (10) years each, until a majority of the OWNERS and a majority of the INSTITUTIONAL LENDERS execute a written instrument declaring a termination of this DECLARATION (as it may have been amended from time to time). Any permitted termination of this DECLARATION shall be effective on the date the instrument of termination is recorded in the Public Records of Palm Beach County, Florida.

9. AMENDMENT

9.01 This DECLARATION may be amended upon the approval of not less than a majority of the OWNERS present in person or by proxy. No real property other than the property described on Exhibit "D" may be added to the SUBJECT PROPERTY without the joinder and consent of MBCA. In order to be effective, any amendment to this DECLARATION must first be recorded in the Public Records of Palm Beach County, Florida, and in the case of an amendment made by the OWNERS, such amendment shall contain a certification by the President and Secretary of the ASSOCIATION that the amendment was duly adopted.

9.02 No amendment shall discriminate against any OWNER or class or group of OWNERS, unless the OWNERS so affected join in the execution of the amendment. No amendment shall change the number of votes of any OWNER or increase any OWNER's proportionate share of the COMMON EXPENSES, unless the OWNERS and INSTITUTIONAL LENDERS of such UNITS so affected by such amendment join in the execution of the amendment. No amendment may prejudice or impair the priorities of INSTITUTIONAL LENDERS granted hereunder unless all INSTITUTIONAL LENDERS join in the execution of the amendment.

9.03 Notwithstanding anything contained herein to the contrary, any amendment to this DECLARATION which would adversely affect the surface water management system of or pertaining to the SUBJECT PROPERTY, including the water management portions of the COMMON AREAS, must have the prior approval of the South Florida Water Management District.

9.04 Notwithstanding anything herein to the contrary, no amendment shall be made to the DECLARATION which materially and adversely affects and / or changes (i) the duties, obligations and / or method of appointment of the ASSOCIATION's "voting representative" as the term is defined in the MASTER DECLARATION, (ii) the method or

manner of collection or the amount of assessments due MBCA pursuant to the provisions of the MASTER DECLARATION, (iii) MBCA's architectural control over the SUBJECT PROPERTY as established in the MASTER DECLARATION, or (iv) any other material provision of the MASTER DECLARATION, without securing the consent of MBDC, if, at the time of adopting such amendment, MBDC owns any LOT within MISSION BAY, as that term is defined in the MASTER DECLARATION. Such consent of MBDC shall not be unreasonably withheld. AFTER MBDC no longer owns any LOT within MISSION BAY, none of the aforesaid amendments shall be made without securing the consent of the MBCA. Such consent of MBCA shall not be unreasonably withheld.

#### 10. SPECIAL PROVISIONS REGARDING INSTITUTIONAL LENDERS.

10.01 Notice of Action. Upon written request to the ASSOCIATION by an INSTITUTIONAL LENDER holding, insuring or guaranteeing a first mortgage encumbering any LOT, identifying the name and address of the holder, insurer or guarantor and the LOT number or address, any such holder, insurer or guarantor will be entitled to timely written notice of:

10.01.1 Any condemnation or casualty loss which affects a material portion of the SUBJECT PROPERTY or the LOT;

10.01.2 Any sixty (60) day default in the payment of ASSESSMENTS or charges owed to the ASSOCIATION or in the performance of any obligation hereunder by the OWNER of the LOT;

10.01.3 Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the ASSOCIATION;

10.01.4 Any proposed action which would require the consent of a specified percentage of INSTITUTIONAL LENDERS.

10.02 Consent of INSTITUTIONAL LENDERS. Whenever the consent or approval of any, all or a specified percentage or portion of INSTITUTIONAL LENDERS are required by this DECLARATION, the ARTICLES, the BYLAWS, or any applicable statute or law, to any amendment of the DECLARATION, the ARTICLES, or the BYLAWS, or to any action of the ASSOCIATION, or to any other matter relating to the SUBJECT PROPERTY, the ASSOCIATION may request such consent or approval of such INSTITUTIONAL LENDER(S) by written request sent certified mail, return receipt requested (or equivalent delivery evidencing such request was delivered to and received by such INSTITUTIONAL LENDERS). Any INSTITUTIONAL LENDER receiving such request shall be required to consent to or disapprove the matter for which the consent or approval is requested, in writing, by certified mail, return receipt requested (or equivalent delivery evidencing such request was delivered to and received by the ASSOCIATION), which response must be received by the ASSOCIATION within thirty (30) days after the holder receives such request, and if such response is not timely received by the ASSOCIATION, the INSTITUTIONAL LENDER shall be deemed to have consented to and approved the matter for which such approval or consent was requested. Such consent or approval given or deemed to have been given, where required, may be evidenced by an affidavit signed by

all of the directors of the ASSOCIATION, which affidavit, where necessary, may be recorded in the Public Records of Palm Beach County, Florida, and which affidavit shall be conclusive evidence that the applicable consent or approval was given as to the matters therein contained. The foregoing shall not apply where an INSTITUTIONAL LENDER is otherwise required to specifically join in an amendment to this DECLARATION.

10.03 Payment of Taxes and Insurance. Any INSTITUTIONAL LENDER may pay any taxes or assessments which are in default, or any overdue insurance premiums, or may secure new insurance upon the lapse of a policy, and shall be owed immediate reimbursement therefore from the ASSOCIATION plus interest at the highest rate permitted by law and any costs of collection, including attorneys' fees.

## 11. MISCELLANEOUS.

11.01 Conflict with ARTICLES or BYLAWS. In the event of any conflict between the ARTICLES and the BYLAWS and this DECLARATION, this DECLARATION, the ARTICLES, and the BYLAWS, in that order, shall control.

11.02 Authority of ASSOCIATION and Delegation. Nothing contained in this DECLARATION shall be deemed to prohibit the BOARD from delegating to any one of its members, or to any officer, or to any committee or any other person, any power or right granted to the BOARD by this DECLARATION including, but not limited to, the right to exercise architectural control and to approve any deviation from any use restriction, and the BOARD is expressly authorized to so delegate any power or right granted by this DECLARATION.

11.03 Severability. The invalidation in whole or in part of any of these covenants, conditions, reservations and restrictions, or any section, subsection, sentence, clause, phrase, word or other provision of this DECLARATION shall not affect the validity of the remaining portions which shall remain in full force and effect.

11.04 Validity. In the event any court shall hereafter determine that any provisions as originally drafted herein violate the rule against perpetuities, the period specified in this DECLARATION shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rules of law.

11.05 Inapplicability of Condominium Act. It is acknowledged that the ASSOCIATION is not intended to be a condominium association, and is not intended to and shall not be governed by the provisions of Florida Statutes, Chapter 718.

11.06 FHA/VA Approval. If any mortgage encumbering any UNIT is guaranteed or insured by the Federal Housing Administration or by the Veterans Administration then upon written demand to the ASSOCIATION by either such agency, the following action, if made by DECLARANT or if made prior to the completion of 75% of the UNITS which may be built within the SUBJECT PROPERTY, must be approved by either such agency: (i) any annexation of additional property as part of the SUBJECT PROPERTY; (ii) any mortgage, transfer or dedication of any COMMON AREAS; (iii) any amendment to this DECLARATION, the ARTICLES or the BYLAWS, if such amendment materially and adversely affects the UNIT

OWNERS or materially and adversely affects the general scheme of development created by this DECLARATION; provided, however, that such approval shall specifically not be required where the amendment is made to add any real property specifically identified in this DECLARATION, or to correct errors or omissions, or is required to comply with the requirements of any INSTITUTIONAL LENDER, or is required by any governmental authority; or (iv) any merger, consolidation or dissolution of the ASSOCIATION. Such approval shall be deemed given if either agency fails to deliver written notice of its disapproval of any such action to DECLARANT or to the ASSOCIATION within twenty (20) days after a request for such approval is delivered to the agency by certified mail, return receipt requested, or equivalent delivery, and such approval may be conclusively evidenced by a certificate of DECLARANT or the ASSOCIATION that the approval was given or deemed given.

11.07 MISSION BAY. The SUBJECT PROPERTY is a part of MISSION BAY. The SUBJECT PROPERTY and the ASSOCIATION are, therefore subject to all of the terms and conditions of the MASTER DECLARATION of MISSION BAY including, but not limited to, (i) the Use Restrictions of the MASTER DECLARATION, (ii) the rules and regulations of the MBCA, (iii) all other rights of the MBCA and (iv) all of the obligations of the ASSOCIATION. Such failure or election not to reiterate any or all of such rights of the MBCA and / or to reiterate any or all of the obligations of the ASSOCIATION shall not in any way imply or be deemed a relinquishment of such rights or a waiver of such obligations. In the event of any conflict between the terms and provisions of this DECLARATION and the terms and provisions of the MASTER DECLARATION, the terms and provisions of the MASTER DECLARATION shall prevail.

In WITNESS WHEREOF, ASSOCIATION has executed this DECLARATION this 14<sup>th</sup>  
day of September 2012

WITNESS AS TO BOTH:

Therese Heller  
Witness Signature

Lauren Heller  
Print Name

Lauren Heller  
Witness Signature

\_\_\_\_\_  
Print Name

REGATTA HOMEOWNERS  
ASSOCIATION, INC.

Brian Fabricant  
Brian Fabricant, President

Jacob Weiss  
Jacob Weiss, Secretary

STATE OF FLORIDA )  
COUNTY OF PALM BEACH )

SS:

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day  
of September 2012, by Brian Fabricant, as President and by  
of REGATTA HOMEOWNERS ASSOCIATION, INC, a Florida Not-for- Profit corporation, on  
behalf of the corporation.

- END -



This instrument prepared by:  
Chelle Konyk, Esq.:ire  
Will Call Box 110  
ST. JOHN ROSSIN PODESTA BURR LEMME PLLC  
1601 Forum Place, Suite 700  
West Palm Beach Florida 33401  
(561) 655-8994

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Palm Beach County, Florida  
Sharon R. Bock, CLERK & COMPTROLLER  
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**CERTIFICATE OF AMENDMENT TO  
DECLARATION FOR COVENANTS AND RESTRICTIONS FOR  
REGATTA HOMEOWNERS ASSOCIATION, INC.**

I HEREBY CERTIFY that the Amendments to this Certificate were duly adopted as the Amendments to The Declaration for Covenants and Restrictions for Regatta Homeowners Association, Inc.

The Amendments to the Declaration were approved by the members by written consent in lieu of a meeting pursuant to Florida Statutes, Section 617.0701. The Declaration for Covenants and Restrictions for Regatta Homeowners Association, Inc. are recorded in Official Record Book 5613, at Page 673, et seq., of the Public Records of Palm Beach County, Florida.

DATED this 14 day of Sept 2012.

WITNESSES FOR BOTH:

REGATTA HOMEOWNERS  
ASSOCIATION, INC.

1. Sign [Signature] By: [Signature]  
President

2. Sign [Signature] Attest: [Signature]  
Secretary

STATE OF FLORIDA )  
COUNTY OF PALM BEACH )

BEFORE ME, personally appeared Brian Fabricant, as President and Jared Weis, as Secretary of Regatta Homeowners Association, Inc., known to me to be the individuals who executed the foregoing instrument. Both acknowledged to and before me that AL as President of the Association, and W as Secretary of the Association, executed such instrument with due and regular corporate authority and that said instrument is the free act and deed of the Association. They did take an oath.

WITNESS my hand and official seal this 14 day of Sept 2012.  
(SEAL)

NOTARY PUBLIC

Sign

Print



[Signature]  
State of Florida at Large  
My Commission Expires: 9/6/13