

DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
HARBOR FRONT HOMEOWNERS' ASSOCIATION, INC.

The purpose of this Amended and Restated Declaration of Covenants and Restrictions (hereinafter "Declaration") is to continue the purposes of the Declaration of Covenants and Restrictions as originally recorded in the public records of Martin County, Florida at Official Records Book 1869, Page 924 et seq., and amended at Official Records Book 1879, Page 0666, et seq. All provisions of this Amended and Restated Declaration of Condominium and all exhibits hereto shall be construed to be covenants running with the land.

ARTICLE 1

DEFINITIONS

The following terms, as used in this Declaration, shall have the following meanings:

- 1.1 "Architectural Review Board" or "A.R.B." shall mean and refer to that permanent committee of the Association created for the purpose of establishing and enforcing criteria for the construction of Improvements within the Property.
- 1.2 "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association as they may exist from time to time. A copy of said Articles of Incorporation are attached hereto as Exhibit "B".
- 1.3 "Assessments" shall mean and refer to those charges made by the Association from time to time, against each Unit within the Property, for the purposes, and subject to the terms, set forth herein.
- 1.4 "Association" shall mean and refer to HARBOR FRONT HOMEOWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation, its successors and assigns, established by the Developer to promote the health, safety and social welfare of the Unit Owners.
- 1.5 "Association Property" shall mean and refer to all real and personal property, other than the Common Property, which may be acquired by or transferred to the Association for the benefit and private, common use and enjoyment of all Owners.
- 1.6 "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.
- 1.7 "Bylaws" shall mean and refer to the Bylaws of the Association as they may exist from time to time, a copy of which is attached hereto as Exhibit "C".
- 1.8 "Common Expenses" shall mean and refer to all actual and estimated expenses, including reasonable reserves, all as may be found to be necessary and appropriate by the Association in connection with its ownership, maintenance and other obligations set forth herein.

1.9 "Common Property" shall mean and refer to all portions of the Property, which are not Lots or Units, which are intended for the common use and enjoyment of the Owners, and which are identified and dedicated to the Association on the recorded subdivision plat of the Property, and/or conveyed to the Association by deed, and all portions of the Property which are submitted to this Declaration that are not dedicated to any governmental entity or to the public for a public use, if any.

1.9.1 The Common Area as conveyed to the Association through the Special Warranty Deed recorded in Martin County Florida, book 01875, page 2260 on March 16, 2004, legal description is:

Tracts CA-1 and CA-2, HARBOR FRONT, according to the Plat thereof as recorded in Plat Book 15, Page 52, of the Public Records of Martin County, Florida.

LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL:

Being a portion of land lying in a common area (Tract CA-1) of the Plat of HARBOR FRONT, recorded in Plat Book 15, Page 52, Public Records of Martin County, Florida. Begin at the Northeast corner of Lot 5, Harbor Front, as recorded in Plat Book 15, Page 52, Public Records of Martin County, Florida; thence South 86deg. 10'00" East, for a distance of 0.70 feet; thence South 03deg. 50'00" West, for a distance of 30.67 feet; thence North 86deg. 10'00" West for a distance of 0.70 feet to the Southeast corner of said Lot 5; thence North 03 deg. 50'00" East, along the Easterly line of said Lot 5, for a distance of 30.67 feet to the Point of Beginning.

Said Parcel containing 21.469 square feet more or less.

AND LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL:

Begin at the Northeast corner of Lot 6, HARBOR FRONT, recorded in Plat Book 15, Page 52, Public Records of Martin County, Florida; thence South 86 deg. 10'00" East, for a distance of 0.70 feet; thence South 03deg. 50'00" West, for a distance of 30.67 feet; thence North 86 deg. 10'00" West, for a distance of 0.70 feet to the Southeast corner of said Lot 6; thence North 03 deg. 50'00" East, along the Easterly line of said Lot 6, for a distance of 30.67 feet to the Point of Beginning.

Said parcel containing 21.469 square feet more or less.

The 'less and except' legal description of the preceding described Parcel are now a part of Building 3, Units 5 and 6, in fee simple, respectively.

1.10 "Common Surplus" shall mean and refer to the excess of all receipts of the Association, including but not limited to, Assessments, rents, profits and revenues in excess of the amount of Common Expenses.

1.11 "County" shall mean and refer to Martin County, Florida.

1.12 "Declaration" shall mean and refer to this instrument, and all exhibits hereto, as the same may be amended from time to time.

- 1.13 "Dock Facilities" shall mean and refer to the submerged land and improvements thereon which are owned (or leased from the State of Florida) by the Association for the docking of marine vessels.
- 1.14 "Dwelling" shall mean and refer to an attached town house dwelling unit, constructed or to be constructed on a Lot.
- 1.15 "Harbor Front Homeowners' Association" shall mean and refer to that certain entity created to maintain, manage, and control the Common Areas and Association Property. It shall be referred to as the "Association," but it may also be referred to as the "Homeowners' Association" or "POA".
- 1.16 "Homeowners Documents" shall mean the Declaration of Covenants and Restrictions, the Articles of Incorporation and Bylaws of the Association, and any Rules and Regulations promulgated from time to time by the Association.
- 1.17 "Improvements" shall mean and refer to all structures of any kind, including without limitation, any building, fence, wall, sign, paving, grating, parking and building addition, alteration, screen enclosure, sewer drain, disposal system, decorative building, landscaping or landscape device or object.
- 1.18 "Institutional Mortgagee" shall mean and refer to any lending institution having a first lien on any property subject to this Declaration, including any of the following institutions: an insurance company or subsidiary thereof, a federal or state savings and loan association, a federal or state building and loan association, the Federal National Mortgage Association, Mortgage Electronic Registration Systems, Inc., the Federal Home Loan Mortgage Corporation, a federal or state banking association, a real estate investment trust, a bank holding company, trust company or subsidiary thereof, union pension fund, or any mortgage banking company authorized to do business in the State of Florida.
- 1.19 "Lot" shall mean and refer to any tract of land located within the Property which is intended for use as a site for a Dwelling.
- 1.20 "Member" shall mean and refer to a member of the Association.
- 1.21 "Municipality" shall mean and refer to the City of Stuart, Florida.
- 1.22 "Owner" or "Unit Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Unit, excluding, however, any mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure.
- 1.23 "Person" shall mean and refer to a natural person, a corporation, a partnership, a trustee, or other legal entity.
- 1.24 "Property" shall mean and refer to that real property legally described in Exhibit "A", attached hereto and made a part hereof, and such additional property as may be subjected to this Declaration from time to time, pursuant to Section 2.2 of this Declaration.
- 1.25 "Roads" shall mean and refer to any street or thoroughfare which has been constructed within the Common Areas, and which is dedicated to the Municipality or the Association,

whether same is designated, for example, by way of illustration and not as limitation, as a street, avenue, boulevard, drive, place, court, road, terrace, way, circle, lane, alley or similar designation.

- 1.26 "Rules and Regulations" shall mean the rules, regulations, and policies as may be adopted by the Board from time to time by resolution or motion carried.
- 1.27 "Town House Building" shall mean and refer to a building containing two Dwelling Units at Harbor Front.
- 1.28 "Unit" shall mean and refer to a Lot and the Dwelling located thereon, if any.

ARTICLE 2

PROPERTY SUBJECT TO THIS DECLARATION

- 2.1 Existing Property. The initial property subject to this Declaration upon the recordation hereof in the Martin County Public Records, is the Property.

ARTICLE 3

HARBOR FRONT HOMEOWNERS' ASSOCIATION

- 3.1 Formation. The Association is formed to operate, maintain, and ultimately own the Common Property; to enforce the covenants, conditions, restrictions, and other provisions set forth in this Declaration and to have such other specific rights, obligations, duties and functions as are set forth in this Declaration and in the Articles of Incorporation and Bylaws of the Association. Subject to the additional limitations provided herein and in the Articles of Incorporation and the Bylaws of the Association, the Association shall have all of the powers, and be subject to all the limitations, of a not-for-profit corporation as contained in Florida Statutes in effect as of the date of recording the Declaration in the public records of the County.
- 3.2 Membership. A person or entity shall automatically become a Member of the Association upon acquisition of fee simple title to any Unit, by filing a deed therefore in the public records of the County. Membership shall continue until such time as the Member transfers or conveys his interest of records or the interest is transferred or conveyed by operation of law, at which time membership, with respect to the Unit conveyed, shall automatically be conferred upon the transferee. Membership shall be appurtenant to, and not be separated from, ownership of Unit(s) subject to this Declaration. No person or entity holding an interest of any type or nature whatsoever in a Unit only as security for the performance of an obligation shall be a Member.
- 3.3 Voting. The Association shall have one (1) class of voting membership. Each Member, shall be entitled to one (1) vote for each Unit owned by such Member as to matters on which the membership shall be entitled to vote, which vote may be exercised or cast by the Member in such manner as may be provided in the Bylaws of the Association. Any Member who owns more than one (1) Unit, shall be entitled to exercise or cast one (1) vote for each such Unit. When more than one Person owns a Unit, all such Persons shall be Members of the Association; provided, however, that the vote of such Owners shall be

exercised as provided hereinbelow, and that in no event shall more than one (1) vote be cast with respect to each Unit. If more than one (1) Person owns a Unit, they shall file a certificate with the Secretary of the Association naming the person authorized to cast votes for said Unit. If the certificate is not on file, the Owner(s) shall not be qualified to vote, and the vote of such Owner(s), at a meeting, shall not be considered in determining whether the quorum requirement has been met. If a Unit shall be owned by a husband and wife as tenants by the entirety, no certificate need be filed with the Secretary naming the person authorized to cast votes for the Unit, and either spouse, but not both, may vote in person or by proxy and be considered in determining whether the quorum requirement has been met at any meeting of the members, unless prior to such meeting, either spouse has notified the Secretary in writing that there is a disagreement as to who shall represent the Unit at the meeting, in which case the certificate requirements set forth shall apply.

- 3.4 Administration of the Association. The affairs of the Association shall be administered by the Board of Directors in accordance with this Declaration, the Articles of Incorporation and the Bylaws of the Association. The Articles of Incorporation and Bylaws may be amended in the manner set forth therein.
- 3.5 Suspension of Membership Rights. No Member shall have any vested right, interest or privilege in or to the assets, functions, affairs, or franchises of the Association, or any right, interest, or privilege which may be transferable, or which shall continue after his membership ceases, or while he is not in good standing. A Member shall be considered "not in good standing" during any period of time in which he is delinquent in the payment of any Assessment, or in violation of any provision of this Declaration or of any rules or regulations promulgated by the Association. While not in good standing, the Member shall not be entitled to vote or exercise any other right or privilege of a Member of the Association.

ARTICLE 4

ASSOCIATION PROPERTY AND COMMON PROPERTY

- 4.1 Title to Common Property. The Association shall be responsible for management, maintenance and operation of the Association Property and Common Property, and for the maintenance and repair of the exterior of all Town House Buildings, and for the payment of all property taxes and other assessments, if any, which are liens against the Association Property and the Common Property, from and after the date of recordation of this Declaration. Anything herein contained to the contrary notwithstanding, certain portions of the Common Property (by way of example and not limited to, the boat slips) may be reserved as limited common property for the exclusive benefit and use of specific Owners.
- 4.2 Acquisition and Conveyance of Property. The Association shall have the power and authority to acquire and convey such interest in real and personal property as it may deem beneficial to its Members. Such interest may include fee simple or other absolute ownership interests, leaseholds, or such other possessory interests as the Association may determine to be beneficial to its Members. Any property acquired pursuant to this section shall be Association Property. The above provisions notwithstanding, the Association shall not dispose of any Common Property by sale or otherwise (except to an organization conceived and organized to own and maintain the Common Property) without first receiving the approval, if so required, of any and all appropriate governmental or quasi-governmental

authorities. The Board, as a condition precedent to disposal of such Common Property, may require dedication of Common Property to the public, as deemed necessary.

4.3 Maintenance of Property.

4.3.1 The Association shall, either by virtue of the appointment of a real estate management agent, or through its own personnel, be responsible for the maintenance and repair of the Association Property, the Common Property, Dock Facilities and the exterior of the Town House Buildings, as hereinafter set forth.

4.4 Rules and Regulations Governing Use of Association Property and Common Property.

The Association, through its Board of Directors, shall regulate the use of the Association Property and Common Property by Members and Owners, and may from time to time promulgate such rules and regulations consistent with this Declaration, governing the use thereof as it may deem to be in the best interest of its Members. A copy of the rules and regulations established hereunder and any amendments thereto shall be made available to all Members at the office of the Association during regular business hours. Such rules and regulations, and all provisions, restrictions and covenants, including, without limitation, all architectural and use restrictions contained in this Declaration, may be enforced by legal or equitable action taken by the Association or a Member.

4.5 Owners' Easements of Enjoyment. Subject to the provisions hereinbelow, each Owner shall have a right and easement of enjoyment in and to the Common Property, which easement shall be appurtenant to, and shall pass with, the title to each Unit.

4.6 Extent of Owners' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

4.6.1 The right of the Association to borrow money for the purpose of improving the Common Property and, in connection therewith, to mortgage the Common Property. Any such mortgage securing the obligation of the Developer shall be satisfied at the time of turnover unless the Association agrees to assume same.

4.6.2 The right of the Association to take such steps as are reasonably necessary to protect the Common Property against foreclosure.

4.6.3 The right of the Association to suspend the rights of an Owner to use the facilities for any period during which any assessment against his Unit remains unpaid for more than thirty (30) days after notice; the right of the Association to suspend the right of an Owner to use the said facilities for a period not to exceed sixty (60) days for any other infraction of this Declaration or any promulgated rule or regulation.

4.6.4 The right of the Association to properly maintain the Common Property.

4.6.5 The rules and regulations governing the use and enjoyment of the Common Property as promulgated by the Association.

4.6.6 The right of the Association to dedicate or transfer all, or any part, of the Common Property to any governmental or quasi-governmental agency, authority, utility, water management or water control district.

- 4.6.7 Restrictions contained on any plat, or files separately, with respect to all, or any portion, of the Property.
- 4.6.8 All of the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, and all exhibits thereto, and all rules and regulations adopted by the Association, as same may be amended from time to time.
- 4.7 Continual Maintenance. In the event of a permanent dissolution of the Association, the Members shall immediately thereupon hold title to the Common Property as tenants in common and shall collectively provide for the continued maintenance and upkeep thereof. In no event shall the County or Municipality be obligated to accept any dedication offered to it by the Association or the Members pursuant to this section, but the County or Municipality may accept such a dedication and in the event the County or Municipality does so, the acceptance must be made by formal resolution of the then empowered Board of City or County Commissioners. The Board, as a condition precedent to the dissolution, may require dedication of Common Property or utilities to the public, as deemed necessary.
- 4.8 Failure to Maintain Common Property. If the Association is notified by any governmental or quasi-governmental authority having jurisdiction over the maintenance or condition of the Common Property that said Common Property is in violation or does not otherwise comply with any governmental rules, ordinances or codes, the governmental body shall serve written notice by certified mail, return receipt requested, upon the Association and upon each Owner within Harbor Front, which notice shall set forth in the manner in which the Association has failed to maintain the Common Property in reasonable order and condition and shall demand that such failure be remedied within a reasonable time period after the sending of such notice (not to exceed ninety (90) days), or, in the alternative that the Association appear before the noticing governmental body to show cause why it cannot remedy such failure within the ninety (90) day period. If such failure has not been remedied within the ninety (90) day period or such longer period as the noticing governmental body may have allowed, then the governmental body, in order to preserve the taxable values of the real property with Harbor Front and to prevent the Common Property from becoming a public nuisance, shall hold a public hearing to consider the advisability of the County or Municipality entering upon such Common Property and maintaining it for a period of one (1) year. Notice of such hearing shall be sent by certified mail, return receipt requested, to the Association and to each Owner within Harbor Front and shall be published one (1) time in a newspaper of general circulation published in the County. Such notice shall be sent and published at least fifteen (15) days prior to the hearing. At such hearing the noticing governmental body may determine that it is or is not advisable for the County or Municipality to enter upon such Common Property, take possession of same and maintain it for a period of one (1) year. The County or Municipality shall have a right of entry, possession and maintenance, provided that the above procedures have been followed, and such entry, possession and maintenance shall not constitute a trespass. Such entry, possession and maintenance shall not give the public any right to use the Common Property. The noticing governmental body may, upon public hearing with notice given and published in the same manner as above, return possession and maintenance of the Common Property to the Association, its successors and assigns, abandon such possession and maintenance, or continue such possession maintenance for an additional one (1) year period. The costs of such maintenance by the County or Municipality shall be assessed ratably against all Units within Harbor Front and

shall become a charge or lien on the Units, and such charge shall be paid by the Owners of said Units within the thirty (30) days after receipt of a statement therefor.

ARTICLE 5

EASEMENTS

- 5.1 Easements Grants. The following easements are hereby granted and/or reserved over, across and through the Property:
- 5.1.1 Easements for the installation and maintenance of utilities are granted as shown on the recorded subdivision plat of the Property. Within these easement areas, no structure, planting or other material, (other than sod) which may interfere with the installation and maintenance of underground utility facilities, shall be placed or permitted to remain unless such structure, planting or other material was installed by the Developer. The Association (or such other entity as is indicated on the plat) is hereby granted access to all easements within which such underground facilities are located for the purpose of operation, maintenance and replacement thereof.
 - 5.1.2 Easements for the installation and maintenance of drainage facilities are granted to the Association, and/or other entities as shown on the recorded subdivision plat of the Property. Within these easement areas, no structure, planting or other material, (other than sod) which may interfere with such installation and maintenance, or which may obstruct or retard the flow of water through drainage channels shall be placed or permitted to remain unless such structure, planting or other material was installed by the Developer. The Association (or such other entity as is indicated on the plat) shall have access to all such drainage easements for the purpose of operation and maintenance thereof.
 - 5.1.3 The Common Property is hereby declared to be subject to perpetual nonexclusive easement in favor of the Association, employees and agents of the Association, in order that such employees, agents or management entity may carry out their duties.
 - 5.1.4 A nonexclusive easement is hereby granted for ingress and egress for pedestrian and vehicular traffic over, through and across Roads, walks, parking areas, other rights of way and such other portions of the Common Property as may from time to time be intended and designated for such uses and purposes, for the use and benefit of the Owners, their families, guests, employees and invitees, in obtaining reasonable access from the Units to the abutting public way. This easement shall be subject to all restrictions on automobile parking which are set forth in Article 8 of this Declaration.
 - 5.1.5 An easement is hereby granted over the Common Property to each Institutional Mortgagee for the purpose of access to the property subject to its mortgage.
 - 5.1.6 Easements are hereby reserved throughout the Common Property, including without limitation, the roads and easements shown on the plat of the Property, by the Association and the Unit Owners, for their use and the use of their agents, employees, licensees and invitees, for all purposes in connection with maintenance of the property and daily needs of the Unit Owners.

- 5.1.7 An easement is hereby granted to the Association, its agents and employees, and any management entity contracted by the Association for the purpose of maintenance and repair of the exterior of the Town House Buildings, including without limitation, the roofs of same Town House Buildings.
- 5.1.8 An easement for encroachments is hereby granted in the event that any party wall, common wall, screen porch, roof overhang, or any other part of a Dwelling or any Improvement, now or hereafter, encroaches upon another Unit, Lot or upon the Common Property, due to minor inaccuracies in survey, construction, reconstruction, or due to settlement or movement or otherwise. The encroaching Improvement shall remain undisturbed as long as the encroachment exists. This easement for encroachment shall also include an easement for the maintenance and use of the encroaching Improvements.
- 5.2 Additional Easements. The Association shall have the right to grant such additional easements (including, without limitation, easements to private cable televisions service companies) or to relocate existing easements through the Property as the Developer or the Association may deem necessary or desirable for the proper operation and maintenance of the Property, or any portion thereof, provided that such additional easements or relocation of existing easements do not prevent or unreasonably interfere with the Owners' use or enjoyment of the Property.
- 5.3 Restriction on Owner Easements. No Owner shall grant any easement upon any portion of the Property to any person or entity without the prior written consent of the Board of Directors.

ARTICLE 6

ASSESSMENTS AND LIEN

- 6.1 Authority of Association. The Association, through its Board of Directors, shall have the power and authority to make and collect Assessments as hereinafter set forth.
- 6.2 General Assessments. General Assessments shall be determined annually for the purpose of maintenance and management of the Association, the Association Property and the Common Property, and the maintenance and repair of the exterior of all Town House Buildings, and for the purpose of promoting the safety and welfare of the Owners. Without limiting the foregoing, general Assessments shall be used for payment of: operation, maintenance and management of the Association, the Association Property and the Common Property; maintenance of the exterior of all Town House Buildings; property taxes and assessments against, and insurance coverage for, the Insurable Property as the same is defined in Article 11 of this Declaration; legal and accounting fees; maintenance of the Roads; management fees; security costs; normal repairs and replacements; maintenance and lease payments, if any, on the Dock Facilities; charges for utilities use upon the Association Property and Common Property; expenses and liabilities incurred by the Association in the enforcement of its rights and duties against the Members or others; the creation of reasonable reserves; and all other expenses deemed by the Board of Directors of the Association to be necessary and proper for management, maintenance, repair, operation and enforcement.

- 6.3 Basis and Collection of General Assessments. The Association shall annually estimate the Common Expenses it expects to incur and the period of time involved therein and shall assess its Members sufficient monies to meet this estimate. All Units shall be assessed at a uniform rate, to be determined by the Association, so that all Units subject to general Assessment shall be equally assessed. Should the Association at any time determine that the Assessments made are insufficient to pay the Common Expenses, the Board of Directors shall have authority to levy and collect additional general Assessments to meet such needs. General Assessments shall be collectible in advance, quarterly in January, April, July and October. The 2004 initial assessment is \$3,000.00 per quarter, per unit, and shall be due the first quarter after the Member closes on the Dwelling.
- 6.4 Special Assessments. The Association shall have the power and authority to levy and collect special Assessments from each Member for payment of the following; the acquisition of property by the Association; the cost of construction, reconstruction, unexpected repair or replacement of a capital Improvement, including the necessary fixtures and personal property related thereto; and the expense of indemnification of each director and officer of the Association. All special Assessments shall be at a uniform amount for each Unit assessed. A special Assessment shall be collectible in such manner as the Board of Directors shall determine. If a special Assessment shall exceed ONE THOUSAND DOLLARS (\$1,000.00) per Unit, it shall require the approval of the membership of the Association, to be obtained at a duly convened regular or special meeting at which a quorum exists and which is called at least in part to secure this approval. Approval shall be by an affirmative vote of at least fifty-one percent (51%) of the votes present in person or by proxy.
- 6.5 Emergency Special Assessments. The Association may levy an emergency special Assessment, which shall not require a vote of the membership of the Association, when, in the sole determination of the Board of Directors, there is an imminent danger of damage to persons or property. Emergency special Assessments may be utilized to pay for preventative, protective or remedial construction, reconstruction, repairs or replacements of improvements. Events justifying emergency special Assessments include, but are not limited to, hurricanes, floods and fires.
- 6.6 Individual Assessments. The Association shall have the power and authority to levy and collect an individual Assessment against a particular Unit for the cost of maintenance, repairs or replacements within or without the Unit (other than for the cost of those maintenance duties to be performed by the Association, as provided in Section 4.3 of this Declaration), which the Owner thereof has failed or refused to perform, and which failure or refusal has, in the opinion of the Association, endangered or impaired the use of value of other portions of the Property. The Association shall have a right of entry onto each Unit to perform necessary maintenance, repairs and replacements, including the right to abate or eliminate any nuisance. The individual Assessment may include attorneys' fees and costs, if any, an administrative fee charged by the Association in an amount to be determined by the Board of Directors in its discretion from time to time. All individual Assessments shall be collective in such manner as the Association shall determine.
- 6.7 Lien for Assessments. All Assessments, together with interest (at a rate not to exceed the highest rate allowed by Florida law as computed from the date the delinquency first occurs), late fees, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Unit against which each Assessment is made. Each

such Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Unit at the time the Assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance.

- 6.8 Effective Date of Lien. Said lien shall be effective only from and after the time of recordation among the Public Records of the County, of a written, acknowledged statement by the Association setting forth the amount due to the Association as of the date the statement is signed. Upon recording, there shall exist a perfected lien for unpaid Assessments prior and superior to all other liens, except for all taxes, bonds, assessments, and other levies which by law would be superior thereto. Upon full payment of all sums secured by that lien and costs and fees accrued, the party making payment shall be entitled to a recordable Satisfaction of Lien.
- 6.9 Remedies. In the event any Owner shall fail to pay his or her Assessments within (15) days after the same becomes due, the Association, through its Board, shall have all of the following remedies to the extent permitted by law.
- 6.9.1 Late Charge. To impose a late charge not in excess of \$50.00.
- 6.9.2 Interest. Interest on said unpaid amount at the rate of eighteen percent (18%) per annum or the maximum rate allowed by law, whichever is greater.
- 6.9.3 Acceleration of Assessments. To accelerate the entire amount of any Assessments for the remainder of the year notwithstanding any provisions for the payment thereof in installments.
- 6.9.4 Attorneys Fees and Costs. To advance on behalf of the Owner funds to accomplish the needs of the Association and the amount or amounts of money so advanced, including reasonable attorneys' fees and expenses which might have been reasonable incurred because of or in connection with such advance, including costs and expenses of the Association if it must borrow to pay expenses because of said Owner, together with interest at the highest rate allowable by law, may thereupon be collected or enforced by the Association and such advance or loan by the Association shall not waive the default.
- 6.9.5 Action in Equity. To file an action in equity to foreclose its lien at any time after the effective date thereof. The lien may be foreclosed by an action in the name of the Association in a like manner as the foreclosure of a mortgage on real property.
- 6.9.6 Action at Law. To file an action at law to collect said Assessments, plus interest at the highest rate allowed by law plus costs and attorneys' fees, without waiving any lien right or rights of foreclosure by the Association.
- 6.10 Rights upon Foreclosure. The Association, acting on behalf of the Owners, shall have the power to bid for the Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. During the period in which the Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no Assessment shall be assess or levied on it; and (c) each other Unit shall be charged, in addition to its usual Assessment, its equal pro rata share of the Assessment that would

have been charged to such Unit had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid common expenses and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

- 6.11 Certificate of Assessments. The Association shall 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 all Members during regular business hours. At the request of an Owner, the Board of Directors shall prepare a Certificate of Assessments signed by an officer of the Association, or a designated agent, setting forth whether the Owner's Assessments have been paid and/or the amount which is due as of the date of the Certificate. The Association or its agent shall be permitted to charge a reasonable fee for said Certificate. As to parties without knowledge of error who rely thereon, such Certificate shall be presumptive evidence of payment or partial payment of any Assessment therein stated as having been paid or partially paid.
- 6.12 Subordination of Lien to Institutional Mortgagees. The lien of Assessments, including interest, late charges, and costs (including attorney's fees and legal assistant's fees) provided for herein, shall be subordinate to the lien of an institutional mortgage upon any Units as provided in this Declaration. The sale or transfer of any Unit shall not affect the Assessment lien. No sale or transfer shall relieve such Unit from lien rights for any Assessments thereafter becoming due. Where the Institutional Mortgagee holding a first mortgage of record or other purchaser of a Unit obtains title pursuant to remedies under the mortgage, its successors and assigns shall be liable for the share of the Association its successors and assigns shall be liable for the share of the Association Expenses or Assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such acquirer.
- 6.13 No Waiver. No Owner may waive or otherwise exempt himself from liability for the Assessments provided for herein, including, by way of illustration and not limitation, by non-use of Common Areas or abandonment of the Unit. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of Assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of the County or other governmental authority.
- 6.14 Exempt Property. The following property shall be permanently exempt from the payment of all Assessments:
- 6.14.1 All property dedicated to, or owned by, the Association.
- 6.14.2 Any portion of the Property dedicated to the County or the Municipality.
- 6.14.3 Any portion of the Property exempted from ad valorem taxation by the laws of the State of Florida.

ARTICLE 7

MAINTENANCE OF PROPERTY

- 7.1 Association Responsibility. The Association shall be responsible for maintenance of the Association Property, the Common Property and the exterior of each Town House Building, including without limitation, the maintenance and repair of the roof and exterior walls and the painting of the exterior surfaces of the Town House Buildings. The cost of same to be a Common Expense.
- 7.2 Unit Owner Responsibilities. The Owner of each Unit shall be responsible for maintenance of the interior areas of the Dwellings, the heating/air conditioning system, and maintenance of the party walls, as provided in Article 10 of this Declaration; provided, however, the Owners shall have no right to maintain any of the property to be maintained by the Association, as aforesaid. The expense of any maintenance, repair or construction of any portion of the Association Property or the Common Property, or the exterior of any Town House Building necessitated by the negligent or willful acts of an Owner or his invitees, licensees, family or guests shall be borne solely by such Owner, and his Unit shall be subject to an individual Assessment for such expense. Extraordinary repairs or replacements of the exterior of the Town House Buildings beyond the normal maintenance performed by the Association, but not resulting from a casualty covered by insurance, shall be performed by the individual Owner at his own expense, provided however, that all repairs and replacements made by an Owner shall be subject to the approval of the A.R.B. as set forth in Article 9 of this Declaration. The Board of Directors of the Association shall determine, in its sole discretion, which repairs and replacements are "normal" and assumed by the Association, and which are "extraordinary" and assumed by the Owner.

ARTICLE 8

USE RESTRICTIONS

- 8.1 Restrictions on the Use of Units and Common Property.
- 8.1.1 Residential Use (Limited Home Business Uses). The Unit shall be used for single-family purposes. However, nothing herein shall be deemed to prevent an Owner from using a Unit for "Limited Home Business Uses". The term, Limited Home Business Uses, includes such uses that are not apparent or detectable by sound, sight, or smell from outside the Unit; the uses do not involve regular visits of customers or clients to the Unit or door to door solicitation of residents of the Property; and the business activity is consistent with the residential character of the Property and does not violate these Use Restrictions. Examples of "Limited Home Business Uses" include, but are not limited to, computer-based telecommunications and literary, artistic, or craft activities. The Board may restrict any business uses that it determines interferes with the enjoyment or residential purposes of the Property in its sole and absolute discretion. With the exception of "Limited Home Business Uses", the Unit shall not be used in any trade, business, professional or commercial activity.
- 8.1.2 Pets. Unit Owners may keep as pets dogs, cats, tropical fish and birds; provided that no more than two (2) pets per Unit shall be permitted (with the exception of

tropical fish). Further, no pet shall be kept, bred or maintained for any commercial purpose. All pets shall be restrained and/or kept on a leash under the control of a responsible person at all times when the pet is outside of a Dwelling. The pet owner shall be responsible at all times for cleaning up and removing all excrement after a pet relieves itself on the Property, and for appropriately disposing of said excrement using the sanitary containers within said Owner's Unit. The Board of Directors shall have the right to order the removal of any pet which is considered a nuisance, in the Board's sole discretion. In such event, the Board shall give written notice to the pet owner, and the pet shall immediately thereafter be permanently removed from the Property.

- 8.1.3 No motorcycle, pick-up truck, trailer, boat, van in excess of 17 feet in length, camper, motor home, bus, commercial vehicle of any type (i.e., any vehicle which has any exterior lettering or logo, or has a rack, visible tools or equipment), non-passenger van (i.e. any van which does not have a rear seat and side windows), or similar vehicle shall be parked on any part of the Properties, any driveway, or designated parking space within the Properties except: (1) if parked completely within a garage, (2) service and delivery vehicles may park on the Property during regular business hours, as needed for providing services or deliveries to a Unit, (3) boats which are properly docked at the community Dock Facilities, and (4) upon such portions of the property as the Board may, in its discretion, allow. The Association shall have the right to enter the Property and authorize the towing away of any vehicles in violation of this rule with the costs and fees, including attorneys' fees, if any, to be borne by the vehicle owner or violator. As an exception to this provision, it is acknowledged that Russell Robinson, Unit Owner of unit #3, shall be allowed to park his pick-up truck, owned at the time of recording this document, outside of his garage in a space so designated by the Board of Directors for so long as that particular vehicle is owned. As a second exception to this provision, it is further acknowledged that Martin Bergin, Unit Owner of unit #2, shall be allowed to park his vehicle directly in front of his garage until December 31, 2005.
- 8.1.4 Insurance. No Owner shall permit or suffer anything to be done or kept within his Unit, or make any use of the Common Property, which will increase the rate of insurance on any portion of the Property.
- 8.1.5 Nuisances. No use or practice, which is either an annoyance to Owners or an interference with the peaceful possession and proper use of the Property by the Owners, shall be allowed. No Owner shall commit or permit any nuisance or any immoral or illegal activity in or about the Property. For greater clarification, no Owner shall knowingly or willfully make or create any unnecessary, excessive or offensive noise, odor or disturbance which destroys the peace, quite and/or comfort of the Owners, or allow any such noise, odor, or disturbance to occur in his Unit.
- 8.1.6 Outside Displays. No Owner shall cause anything to be affixed, attached, hung, displayed or placed on the exterior walls, doors or visible through the window of his Unit. Including but not limited to "For Sale" or "For Rent" signs, nor shall he place any furniture or equipment outside his Dwelling without the approval of the A.R.B.
- 8.1.7 Subdivision of Units. No Dwelling shall be re-subdivided to form a dwelling unit smaller than the dwelling originally constructed. Two or more adjacent Dwellings

may be combined to form one Dwelling, subject to the prior written approval of the A.R.B. and the executing and recording of a unity of title agreement between the Unit Owner and the Association.

- 8.1.8 Access to Units. Whenever the Association is permitted or required by this Declaration to enter any Unit for the purpose of correction, enforcement, repair or maintenance, or any other required or permitted activity, such entrance shall not be deemed a trespass.
- 8.1.9 Maintenance of Units. All Units shall be kept in a clean and sanitary condition; and no rubbish, refuse or garbage shall be allowed to accumulate, or any fire hazard allowed to exist. In the event an Owner fails to maintain his Unit as aforesaid, the Board shall give the Owner in violation of this Declaration or the duly adopted rules and regulations, written notice of the violation by first class U.S. Mail to the last known address on file with the Association, within fifteen (15) days in which to cure the violation (unless other time frame are stipulated within the Declaration). If such violation is not corrected within said time frame, the Association has the right, exercisable in its discretion, to enter the subject property to correct the violation and seek enforcement through law or equity. If the Association determines to enter the subject property, a notice to enter the Property shall be sent a minimum of seven (7) days prior to entering. In the event the Association, after such notice, causes the subject work to be done then, and in that event the costs of such work will be charged to the Owner and may be collected as an Assessment including interest, and all costs incurred in the enforcement action, including reasonable attorney's fees.
- 8.1.10 Parking and Garages. Except as noticed in 8.1.3, vehicles shall be parked only in the garages. No garage shall be permanently enclosed or converted without the prior written consent of the A.R.B. The doors of all garages shall be kept in a useful operation condition and shall be closed at all times, except for ingress and egress. This provision is subject to the exceptions in 8.1.3.
- 8.1.11 Additions and Improvements. No Owner shall have the right to construct any Improvements of any type or nature whatsoever on his Unit without the prior written consent of the A.R.B., which approval may be withheld at the sole discretion of the A.R.B.
- 8.1.12 Wheeled Vehicles, Toys, Personal Property. No bicycles, tricycles, scooters, baby carriages, skateboards, toys or other personal property shall be allowed to be stored or parked in the Common Property or in open view to other Unit Owners. The sidewalks, walkways, roads and parking areas shall not be obstructed or used for any purpose other than for ingress to and egress from the Dwellings and the Common Property.
- 8.1.13 Window Treatments. All draperies, curtains, blinds, shades or window coverings installed in a Dwelling and which are visible from the exterior shall have white or off-white backing, and shall be consistent in appearance.
- 8.1.14 Parking. Portions of the Common Property contain various parking areas which shall be designated as guest parking. The guest parking spaces shall be Common

Property and shall be for the use of the guests and invitees of the Owners. No Owner, or any person residing in the Unit, shall be allowed to use a guest parking space for parking their own vehicle, without written board approval; instead, Owners without such written board approval must park their vehicles in the garage, located in their Units.

- 8.1.15 Common Property and Exterior of Dwellings. No Owner shall perform any maintenance or repairs on the Common Property, or any Improvements located thereon, nor shall an Owner maintain, repair, paint, stain or otherwise decorate or improve the exterior of his Town House Buildings. No Owner shall interfere in any way with the maintenance and repair of the Common Property and the exterior of Town House Buildings by the Association, its agents, employees, authorized independent contractors or any management entity contracted by the Association.
- 8.2 Rules and Regulations. No person shall use the Common Property, or the Association Property, or any Unit, in any manner contrary to, or not in accordance with, the rules and regulations which may be promulgated by the Association.

ARTICLE 9

ARCHITECTURAL AND LANDSCAPING CONTROLS

- 9.1 Architectural Review Board. It is the intent of Developer to create a general plan and uniform scheme of development of the Property and to create within the Property a residential community of high quality and harmonious improvements. Accordingly, the Developer may establish an Architectural Review Board (the "A.R.B") which, if so established, shall be a committee of the Association and which shall have the powers, duties and responsibilities set forth in this Declaration. If an A.R.B is not established, the Board of Directors shall serve as the A.R.B.
- 9.2 A.R.B. Procedures. Whenever A.R.B. approval is required by this Declaration, the Owner shall submit, in writing, a request for approval which shall include all plans, specifications and drawings. The A.R.B. may provide an application package, and may require a fee for said approval. Approval or denial shall be evidenced by a written document signed by a member of the A.R.B. and delivered to the Owner within 30 days of the date of receipt of a completed application. If the A.R.B. fails to notify the Owner in writing of such approval or denial, such non-response shall be deemed approval for the purposes hereof.
- 9.3 Developer Exempt. Notwithstanding anything contained herein to the contrary, any Improvements of any nature made or to be made by the Developer, shall not be subject to the review of the A.R.B.

ARTICLE 10

PARTY WALLS

The following terms shall apply:

- 10.1 Party Walls. The common walls separating the Dwellings shall be party walls for the perpetual benefit of, and use by, the Owners of such Dwellings, including their heirs,

successors, assigns and grantees.

- 10.2 Maintenance. In the event of damage or destruction of the party wall from any cause other than the negligence or willful misconduct of an Owner, to the extent not covered by insurance, the Owners sharing the party wall shall share equally in the cost of repairing or rebuilding the party wall, and each shall have the right to full use as specified here of the wall as repaired or rebuilt. In the event it shall become necessary or desirable to perform maintenance on the whole or part of the party wall, the expense shall be shared equally by the Owners of the adjoining Dwellings. Whenever a wall shall be rebuilt, it shall be erected in the same manner and at the same location where initially constructed and shall be of the same size and of the same or similar materials and of like quality as the original wall, and shall be approved, in advance, by the A.R.B.; provided however, that if any maintenance, repair or construction is necessitated solely because of the negligence or willful misconduct of an Owner, any expense incidental thereto shall be borne solely by such Owner. If an Owner shall refuse to pay his share of the cost of repair (or all of the costs, in the case of negligence or willful misconduct), the other Owners sharing the party wall may perform the maintenance, repair or construction and, in such event, shall be entitled to a lien on the Unit of the Owner who has failed to pay, which lien shall be enforceable by bringing an action to foreclose the lien against the delinquent Owner's Unit in the manner in which mortgages on real property are foreclosed, and/or a suit on the personal obligation of the Owner. If an Owner shall have given a mortgage upon his Dwelling, then the Institutional Mortgagee shall have the full right, at its option, to exercise the rights of its mortgagor as an Owner hereunder and, in addition, the right to add to the outstanding balance of such mortgage any amounts paid by the Institutional Mortgagee for repairs hereunder and not reimbursed to the Institutional Mortgagee by the Owner.
- 10.3 Use of Party Wall. The Owner of each Dwelling sharing a party wall shall have the right to the full use of the party wall for whatever purpose or purposes he chooses, subject to the limitation that the use shall not infringe upon the rights of any other Owner sharing the party wall, or in any manner impair the value of the wall, or in any manner violate the rules and regulations of the Association, or the provisions of this Declaration. If an Owner shall cease to use the wall as a party wall, he shall be deemed to have abandoned all rights thereto, and the wall shall become the property of the adjacent Owner, who shall have an easement upon the land underlying the wall so long as the wall shall be used by him. Any Owner removing Improvements from a party wall or making use of the party wall shall do so in such manner as to preserve all rights of the adjacent Owner in the wall, and shall hold 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 Dwelling shall not be deemed a trespass, so long as the repairs and reconstruction shall be done in a workmanlike manner, and are approved in advance by the A.R.B., and consent is hereby given to enter upon the adjacent Dwelling to effect necessary repairs and reconstruction.
- 10.4 Restrictions on Alterations. No Owner shall have the right to cut windows or other openings in the party wall, nor make any alterations, additions or structural changes thereto unless, as provided hereinbefore, (i) the Owner owns two adjacent Units and has combined the Units by unity of title; and (ii) the Owner makes written application with the A.R.B. and receives written approval from the A.R.B. for said alteration, addition or change.
- 10.5 Insurance. Insurance, other than title insurance, that shall be carried on the party walls,

shall be purchased by the Association, as provided in Article 11 of this Declaration.

ARTICLE 11

INSURANCE

Insurance, other than title insurance, that shall be carried on the Common Property, the Association Property, the exterior of Town House Buildings and the party walls shall be governed by the following provisions:

11.1 Authority to Purchase: Named Insured. The Association shall purchase insurance on the following property: the Common Property, the Association Property and the Town House Buildings, including all exterior surfaces of such buildings, the interior electrical and plumbing systems of such buildings, the unfinished interior surfaces of the perimeter walls, floors and ceilings of the individual Dwellings and the party walls (the aforesaid property to be insured by the Association shall, hereinafter, collectively be referred to as the "Insurable Property"), provided, however, the Insurable Property shall not include any additions or structural modifications to the Dwellings by an Owner if not approved in advance and in writing, by the Association and the insurance company of the Association. The Association shall not purchase insurance on the interiors of the Dwellings, which shall mean and refer to all surfaces and structures within the interior unfinished surfaces of the ceiling, floor and perimeter walls of the Dwellings, nor shall the Association purchase insurance on the equipment, furniture or other personal property located within the Units. All insurance policies upon the Insurable Property shall be purchased by the Association and shall be placed in a single agency or company, if possible. The named insured shall be the Association individually, and as agent for the Association, the Members without naming them, and Institutional Mortgagees. Provisions shall be made for the issuance of mortgagee endorsements and memoranda of insurance to any such Institutional Mortgagees. The policies shall provide that payments by the insurer for losses may be made to the named insured for the benefit of the Members. The Owners may purchase insurance on the interiors of their Dwellings, as aforescribed, and their personal property, as they deem appropriate.

11.2 Coverage.

11.2.1 Property Insurance. All Insurable Property shall be insured for fire and extended coverage perils, excluding foundation and excavation costs, at their maximum insurable replacement value, except that all personal property owned by the Association shall be insured for its full insurable value, all as determined annually by the Board of Directors of the Association.

11.2.2 Public Liability Insurance. The Association shall obtain public liability and property damage insurance covering all of the Common Property and the Association Property, and insuring the Association and the Members as their interest appear in such amounts and providing such coverage as the Board of Directors of the Association may determine from time to time; provided, that the minimum amount of coverage shall be \$1,000,000 per occurrence, and \$2,000,000 aggregate. The liability insurance shall include, but not be limited to, hired and non-owned automobile coverage.

- 11.2.3 Workmen's Compensation Insurance. The Association shall obtain Workmen's Compensation Insurance in order to meet the requirements of law.
- 11.2.4 Flood Insurance. The Association shall obtain flood insurance to maximum reconstruction cost of the Town House Buildings subject to the maximum available through the National Flood Insurance Program.
- 11.2.5 Other Insurance. The Board of Directors of the Association shall obtain such other insurance as they shall determine from time to time to be desirable.
- 11.2.6 Subrogation Waiver. If available, the Association shall obtain policies which provide that the insurer waives its rights to subrogation as to any claim against Members, the Association and their respective servants, agents and guests.
- 11.3 Premiums. The cost of insurance premiums and other incidental expenses incurred by the Association in administering and carrying out any of the provisions of this Article shall be a Common Expense.
- 11.4 Shares of Proceeds.
- 11.4.1 Insurable Property. Proceeds on account of damage to any of the Insurable Property shall be an equal, undivided share for each Member.
- 11.4.2 Institutional Mortgagees. In the event a mortgagee endorsement has been issued regarding an Improvement which is Insurable Property, the share of the Owner shall be held in trust for the Institutional Mortgagee and the Owner as their interests may appear; provided, however, than no Institutional Mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged Improvements shall be reconstructed or repaired, nor any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distribution of such proceeds made to the Owner and Institutional Mortgagee pursuant to the provisions of this Declaration.
- 11.5 Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the Members in the following manner:
- 11.5.1 Reconstruction or Repair. If the damage for which proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the costs of such repairs, as hereinafter provided. Any proceeds which remain after defraying such costs shall be distributed to the Members.
- 11.6 Failure to Reconstruct or Repair. If it is determined in the manner hereinafter provided that the damage for which proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the Members. There shall be no distribution of remaining proceeds until all debris, remains and residue have been cleared and removed, and the damaged area has been property landscaped. In the event of loss or damage to personal and/or real property belonging to the Association, and that the Board of Directors of the Association determines not to replace such personal and/or real property as may be lost or damaged, the proceeds shall be distributed to the Members.

- 11.7 Association's Power to Compromise Claims. The Board of Directors of the Association is hereby irrevocably appointed agent for each Member and for each Institutional Mortgagee or other lien holder, for the purpose of compromising and settling all claims arising under insurance policies purchased by the Association, and to execute and deliver releases therefore upon payment of claims.

ARTICLE 12

RECONSTRUCTION OR REPAIR AFTER CASUALTY.

- 12.1 Determination to Reconstruct or Repair. If any part of the Insurable Property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:
- 12.1.1 Common Property. If the damaged Improvement is part of the Common Property, the damaged property shall be reconstructed or repaired unless it is determined by the Members of the Association that it shall not be reconstructed or repaired.
- 12.1.2 Association Property. If the damaged property is Association Property, the Board of Directors of the Association shall determine whether the damaged property shall be reconstructed, replaced or repaired.
- 12.1.3 Town House Buildings. If the damaged property is a Town House Building or a portion of a Town House Building, and such property constitutes Insurable Property, the damaged property shall be reconstructed or repaired unless it is determined by the Members that it shall not be reconstructed or repaired.
- 12.2 Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original Improvements; or if not, then according to such plans and specifications as are approved by the A.R.B.
- 12.3 Estimate of Costs. Immediately after a determination is made to rebuild, replace or repair damage to Insurable Property, the Association shall obtain reliable and detailed estimates of the cost to rebuild, replace or repair. Such costs may include professional fees and premiums for such bonds as the Board of Directors requires.
- 12.4 Special Assessments. The amount by which an award of insurance proceeds is reduced as a result of a deductible clause in the insurance policy shall be assessed equally against all Members as a special Assessment. If the proceeds of such special Assessment and of the insurance are not sufficient to defray the estimated costs of reconstruction, replacement and repair by the Association, or if at any time during reconstruction, replacement and repair, or upon completions of reconstruction and repair, proceeds of such special Assessment and of the insurance are insufficient, special Assessments shall be made against the Members in sufficient amounts to provide funds for the payment of such costs.
- 12.5 Construction Funds. The funds for the payment of costs of reconstruction, replacement and repair after casualty, which shall consist of proceeds of insurance and funds collected by the Association from special Assessments against Members, shall be distributed in payment of such costs in the following manner:

- 12.5.1 Association. If the total of special Assessments made by the Association in order to provide funds for payment of costs of reconstruction, replacement and repair that is the responsibility of the Association is Twenty-Five Thousand Dollars (\$25,000.00) or more, then the sums paid upon such special Assessments shall be held by the Association.
- 12.5.2 Construction Fund. The proceeds of insurance collected on account of a casualty, and the sums deposited by the Association from collections of special Assessments on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of repair and construction in the following manner and order:
- 12.5.2.1 Association-Lesser Damage. If the amount of the estimated costs of reconstruction, replacement and repair that is the responsibility of the Association is less than Twenty-Five Thousand Dollars (\$25,000.00), the construction fund shall be disbursed in payment of such costs upon the order of the Association.
- 12.5.2.2 Association Major Damage. If the amount of the estimated costs of reconstruction, replacement and repair that is the responsibility of the Association is Twenty-Five Thousand Dollars (\$25,000.00) or more, then the construction funds held by the Association shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association, and upon approval by a qualified professional employed by the Association to supervise the work.
- 12.5.2.3 Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction, replacement and repair shall be from insurance proceeds. If there is a balance in the construction fund after payment of all costs of the reconstruction, replacement and repair for which the fund is established, such balance shall be distributed equally to the Members.
- 12.6 Equitable Relief. In the event of major damage to or destruction of part of the Insurable Property, and in the event the Insurable Property is not repaired, reconstructed, replaced or rebuilt within a reasonable period of time, any Member shall have the right to petition a court of equity, having jurisdiction in and for the County, for equitable relief.

ARTICLE 13

INDEMNIFICATION OF DIRECTORS AND OFFICERS

Every director and officer of the Association shall be indemnified by the Association against all expenses and liability, including attorney's fees, incurred by or imposed upon him in connection with any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director or officer, whether or not he is a director or officer at the time such expenses are incurred, except for such cases where the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided however, that in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the director or officer seeking such reimbursement or indemnification, the indemnification herein shall apply only in the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such officer or director may be entitled.

ARTICLE 14

HARBOR FRONT MARINA PROGRAM

The marina facilities at Harbor Front currently consist of one (1) existing dockage area with six (6) boat slips and appurtenant facilities. The Association has assigned a designated boat slip to each Owner. The slip will be subject to the exclusive use by that Owner. The use and regulation of said slips being more specifically set forth in the Rules and Regulations for the Marina Program, that may be amended from time to time by the Association.

ARTICLE 15

GENERAL PROVISIONS

- 15.1 Assignment. All of the rights, powers, obligations, easements and estates reserved by, or granted to the Association, may be assigned by the Association, as the case may be. After such assignment, the assignee shall have the same rights and powers, and be subject to the same obligations and duties as were the Association, prior to the assignment, and the Association shall be relieved and released of all obligations with respect to such rights, powers, obligations, easement or estates.
- 15.2 Amendment. This Declaration may be amended upon the recordation of an appropriate instrument on the Public Records of the County, subject however, to the following provisions:
- 15.2.1 Except as provided hereinbelow, an amendment must obtain the approval of at least sixty-six and two-thirds percent (66 2/3%) of the votes of Members.
- 15.2.2 No amendment or change to this Declaration or to the exhibits hereto shall be effective to affect or impair the validity or priority of a first mortgage held by an Institutional Mortgagee encumbering a Unit, or to affect or impair the rights granted herein to Institutional Mortgagees, without the written consent thereto by the Institutional Mortgagee owning and holding the mortgage encumbering the Unit, which consent shall be executed with the formalities required for deeds and recorded with the amendment.
- 15.2.3 Any duly adopted amendment to this Declaration shall run with and bind the Property for the same period and to the same extent as do the covenants and restrictions set forth herein.
- 15.3 Duration. All of the covenants, restrictions and other provisions of this Declaration shall run with and bind the Property for a term of fifty (50) years from the date of recordation of this Declaration, after which time they shall be automatically extended for successive periods of ten (10) years each, unless an instrument executed by at least sixty-six and two thirds percent (66 2/3%) of the votes of the membership then existing, and by all Institutional Mortgagees, has been recorded, agreeing to change or terminate these covenants and restrictions.
- 15.4 Covenants Running with the Property. The agreements, covenants, conditions, restrictions, Assessments, liens and other provisions contained herein shall: constitute

a servitude upon the Property and each portion thereof; shall run with the Property; shall be binding upon the Owners of any portion thereof; and shall inure to the benefit of the Association and the Owners.

15.5 Enforcement. Enforcement of the covenants, restrictions, conditions, obligations, reservations, rights, powers, Assessments, liens and other provisions contained herein shall be by a proceeding at law or in equity against any persons or entities violating or attempting to violate same and/or against the Property subject hereto to enforce any lien created by this Declaration. In the event that the Association fails to enforce the terms of this Declaration, then any Member may do so. The failure or refusal of the Association or any Member to enforce any of the provisions of this Declaration shall in no event be deemed to constitute a waiver of the right to do so thereafter.

15.6 Notice. Any notice required or permitted to be given by this Declaration shall be given or made in writing:

15.7.1 Any given notice in accordance with the provisions of this subsection shall be deemed to be effective, if personally delivered, on the date of such delivery, or if mailed by first class mail, on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be. Each party may give notice to each of the other parties of a change of its address for the purposes of giving notice under this subsection, which thereafter, until changed by like notice, shall be the address of such party for all purposes of this Declaration.

15.7.2 Plat. In addition to this Declaration, the Property shall be subject to the additional covenants, restrictions, reservations and other terms and provisions set forth in the plat of the Property, which plat is recorded in the Public Records of the County.

15.7.3 Gender and Number. The use of the singular herein shall include the plural, and the use of any gender shall include all genders.

15.7.4 Severability. Invalidation of any one of the covenants or restrictions contained herein by judgment or court order shall in no way affect any other provision hereof, which shall remain in full force and effect.

15.7.5 Captions. The captions used in this Declaration and exhibits annexed hereto are inserted solely as a matter of convenience and shall not be relied upon or used in construing the text of this Declaration or any exhibits hereto.

15.7.6 Effective Date. This Declaration shall become effective upon its recordation in the Public Records of the County.

This Amended and Restated Declaration of Covenants and Restrictions for Harbor Front Homeowners' Association, Inc., has been approved by not less than sixty six and two thirds percent (66 2/3%) of the votes of the members in attendance or by proxy.

The undersigned, Harbor Front Homeowners Association, Inc., hereby consents to the terms and provisions contained in the foregoing Amended and Restated Declaration and hereby assumes the duties and obligations imposed upon the undersigned thereunder.

IN WITNESS WHEREOF, the HARBOR FRONT HOMEOWNERS' ASSOCIATION, INC., has caused these presents to be signed in its name, by its President and its corporate seal affixed on this 27th day of September, 2005.

WITNESSES:

HARBOR FRONT HOMEOWNERS ASSOCIATION, INC.

Pamela Garcia
Printed Name #1: Pamela Garcia

By: [Signature]
Its President, Frank Weis

[Signature]
Printed Name #2: DIANE D. HARRISON

STATE OF DELAWARE
COUNTY OF SUSSEX

The foregoing instrument was acknowledged before me on the 27th day of Sept., 2005 by Frank Weis, as President of HARBOR FRONT HOMEOWNERS' ASSOCIATION, INC., [] who is personally known to me, or [] who has produced identification [Type of Identification: _____].

Karen M. Murray
Notary Public, State of Delaware
My Commission Expires 5-09-07

Karen M Murray m/c/e 5-9-07
Notary Public
Printed Name: KAREN M. MURRAY


WITNESSES:
[Signature]
Printed Name #1 May Ann Mansum

HARBOR FRONT HOMEOWNERS' ASSOCIATION, INC.
[Signature]
Its Secretary, William Derrickson

[Signature]
Printed Name #2 Aisha Wescott

STATE OF FLORIDA
COUNTY OF MARTIN

The foregoing instrument was acknowledged before me on the 4 day of Nov., 2005, by William Derrickson, as Secretary of HARBOR FRONT HOMEOWNERS' ASSOCIATION, INC., [] who is personally known to me, or [] who has produced identification [Type of Identification: _____].

 **DIANE D. HARRISON**
MY COMMISSION # DD 278682
EXPIRES: February 20, 2008
Notary Public
Bonded Thru Budget Notary Services

[Signature]
Notary Public
Printed Name: DIANE D. HARRISON

CORPORATE SEAL

**EXHIBIT "A" TO THE DECLARATION OF COVENANTS
AND RESTRICTIONS FOR HARBOR FRONT
HOMEOWNERS' ASSOCIATION, INC.**

LEGAL DESCRIPTION

Lot 18, Block 3, Kitchings Addition, as recorded in Plat Book 2, Page 86, public records of Palm Beach (now Martin) County, Florida.

Containing .80 +/- acres.