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Declaration of Covenants, Conditions, and Restrictions  
for Tortoise Cay at St. Lucie West

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
TORTOISE CAY AT ST. LUCIE WEST

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR TORTOISE CAY AT ST. LUCIE WEST is made this 12<sup>th</sup> day of December, 2000, by St. Lucie West Development Corp., (hereinafter referred to as "Declarant").

Declarant is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein by reference ("Property"). Declarant intends by this Declaration to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of residential property within the Property. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Property, and to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property, subjected to this Declaration.

Declarant hereby declares that all of the Property described in Exhibit "A" shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the Property or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof. This Declaration does not and is not intended to create a condominium within the meaning of Chapter 718, *Florida Statutes*.

Article I  
Definitions

Section 1. "Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, which by the terms of this Declaration become the responsibility of the Association. The office of any property manager employed by or contracting with the Association, if located on the Property, or any public rights-of-way within or adjacent to the Property, may be part of the Area of Common Responsibility.

Section 2. "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of Tortoise Cay at St. Lucie West Residents' Association, Inc., as filed with the Secretary of State of the State of Florida, attached hereto as Exhibit "C".

Section 3. "Association" shall mean and refer to Tortoise Cay at St. Lucie West Residents' Association, Inc., a Florida corporation not-for-profit, its successors or assigns. The "Board of Directors" or "Board" shall be the elected body having its normal meaning under Florida corporate law.

Section 4. "Base Assessment" shall mean and refer to assessments levied to fund expenses for the benefit of all Members of the Association.

Section 5. "Bylaws" shall mean and refer to the Bylaws of Tortoise Cay at St. Lucie West Residents' Association, Inc., attached hereto as Exhibit "D" and incorporated herein by reference, as they may be amended from time to time.

Section 6. "Class "B" Control Period" shall mean and refer to the period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board of Directors, as provided in Article X of the Articles of Incorporation.

Section 7. "Common Area" shall mean all real and personal property which the Association now or hereafter owns or otherwise holds for the common use and enjoyment of the Owners.

Section 8. "Common Expenses" shall mean and include the actual and estimated expenses of operating the Association and maintaining the Area of Common Responsibility, including any reasonable reserves, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Bylaws, and the Articles of Incorporation of the Association.

Section 9. "Community Development District" shall mean and refer to the St. Lucie West Services District, a local unit of special-purpose government which was created in accordance with Florida Statutes, Chapter 190 to provide certain community services to the area in which the Property is located.

Section 10. "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout St. Lucie West. Such standard may be more specifically determined by the New Construction Committee.

Section 11. "Declarant" shall mean and refer to St. Lucie West Development Corp., a Florida corporation, and any successor or assign thereof to which St. Lucie West Development Corp. specifically assigns all or part of the rights of Declarant hereunder by an express written assignment, whether recorded in the Public Records of the County or not. The written assignment may give notice as to which rights of Declarant are to be exercised and as to which portion of the Property. In any event, any subsequent declarant

shall not be liable for any default or obligations incurred by any prior declarant, except as may be expressly assumed by the subsequent declarant. An Owner shall not, solely by the purchase of a Lot, be deemed a successor or assign of Declarant under the Tortoise Cay Documents unless such Owner is specifically so designated as a successor or assign of such rights in the instrument of conveyance or any other instrument executed by Declarant.

Section 12. "Home" shall mean a single-family residential dwelling unit constructed on a Lot within Tortoise Cay.

Section 13. "Improvement(s)" shall mean and refer to any Home, building, structure, improvement, or artificially created condition of any kind including, but not limited to, any landscaping, planting, topographical feature, mailbox, swimming pool, screen enclosure, driveway, sidewalk, outside lighting, wall, fence, sign, bench, irrigation system or lake.

Section 14. "Lot" shall mean and refer to any parcel of land within the Property as shown on the Plat upon which a Home is permitted to be constructed, together with the Improvements thereon. The term shall include all portions of the parcel owned, including any structures thereon.

Section 15. "Master Land Use Plan" shall mean and refer to the plan for the development of St. Lucie West.

Section 16. "Member" shall mean and refer to a Person entitled to membership in the Association, as provided herein.

Section 17. "Mortgage" shall mean and refer to a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

Section 18. "Mortgagee" shall mean and refer to a beneficiary or holder of a Mortgage.

Section 19. "Mortgagor" shall mean and refer to any Person who gives a Mortgage.

Section 20. "Owner" shall mean and refer to one (1) or more Persons who hold the record title to any Lot which is part of the Property, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a recorded contract of sale, and the contract specifically so provides, then the purchaser (rather than the fee owner) will be considered the Owner.

Section 21. "Person" means a natural person, a corporation, a partnership, a trustee, or other legal entity.

Section 22. "Plat" shall mean and refer to both the St. Lucie West Plat No. 130 Tortoise Cay at St. Lucie West - Phase I recorded in the public records of St. Lucie County at Plat Book 39 Page 19, 21-2 and to the St. Lucie West Plat No. 136 Tortoise Cay at St. Lucie West - Phase II recorded in the public records of St. Lucie County at Plat Book 39 Page 18, 18A-G.

Section 23. "Property" shall mean and refer to the real property described in Exhibit "A" attached hereto.

Section 24. "Special Assessment" shall mean and refer to assessments levied in accordance with Article IX, Section 3 of this Declaration.

Section 25. "St. Lucie West" shall mean and refer to that planned community in the City of Port St. Lucie, St. Lucie County, Florida, on the property described in Exhibit "B" attached hereto.

## Article II Property Rights

Every Owner shall have a right and easement of enjoyment in and to the Common Area, subject to this Declaration as it may be amended from time to time and to any restrictions or limitations contained in any deed conveying such property to the Association. Any Owner may delegate his or her right of enjoyment to the members of his or her family, tenants, and social invitees, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Lot shall be deemed to have delegated all such rights to the Lot's lessee.

Declarant reserves the right to amend this Declaration unilaterally at any time during the Class "B" Control Period, without prior notice and without the consent of any Person, for the purpose of removing certain portions of the Property then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration to the extent included originally in error or as a result of any changes whatsoever in the plans for Tortoise Cay desired to be effected by the Declarant, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for St. Lucie West. This Declaration shall not be amended without the express written consent of St. Lucie West Development Corp.

## Article III Membership and Voting Rights

Section 1. Membership. Every Owner, as defined in Article I, shall be deemed to have a membership in the Association. No Owner, whether one or more Persons, shall have more than one (1) membership per Lot owned. In the event the Owner of a Lot is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the

Bylaws. The membership rights of a Lot owned by a corporation, partnership, or similar entity shall be exercised by the individual designated by the Owner in a written instrument provided to the Secretary of the Association, subject to the provisions of the Articles of Incorporation, this Declaration and the Bylaws.

Section 2. Voting. The Association shall have two (2) classes of membership, Class "A" and Class "B", as follows:

(a) Class "A". Class "A" Member shall be all Owners with the exception of the Class "B" Member, if any.

Class "A" Members shall be entitled to one (1) equal vote for each Lot in which they hold the interest required for membership under Section 1 hereof; there shall be only one (1) vote per Lot. Unless otherwise specified in this Declaration or the Bylaws, the vote for each Lot shall be exercised by the Owner, as defined in Article I, of that Lot.

In any situation where a Member is entitled personally to exercise the vote for his/her Lot, and more than one (1) Person holds the interest in such Lot required for membership, the vote for each Lot shall be exercised as those Persons determine among themselves and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise it.

(b) Class "B". The Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve actions taken under this Declaration and the Bylaws, are specified elsewhere in this Declaration and the Bylaws. The Class "B" Member shall be entitled to two (2) times the then number of Class "A" votes plus one (1) vote and, in addition, shall be entitled to appoint the members of the Board of Directors during the Class "B" Control Period, as specified in Article X of the Articles. After termination of the Class "B" Control Period, the Class "B" Member shall have a veto power over all actions of the Board of Directors as provided in Article III, Section A.3, of the Bylaws. The Class "B" membership shall terminate and become converted to Class "A" membership as provided in Article X of the Articles.

#### Article IV Maintenance

##### Section 1. Association's Responsibility.

The Association shall maintain and keep in good repair the Area of Common Responsibility, such maintenance to be funded as hereinafter provided. This maintenance shall include, but need not be limited to, maintenance, repair, and replacement, subject to any insurance then in effect, of all roads within the Property, the wall and wall easements,



the private drainage easements, the open space tracts, and all landscaping and other flora, structures, and improvements situated upon such areas.

The Association may maintain property which it does not own, including without limitation, property dedicated to the public, or to the Community Development District, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

## Section 2. Owner's Responsibility.

Each Owner shall maintain his or her Lot and all Improvements thereto in a manner consistent with the Community-Wide Standard and all applicable covenants. If any Owner fails properly to perform his or her maintenance responsibility, the Association may perform it and assess all costs incurred by the Association against the Lot and the Owner thereof in accordance with Article IX, Section 3, of this Declaration; provided, however, except when entry is required due to an emergency situation, the Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry.

## Article V Insurance and Casualty Losses

### Section 1. Insurance.

The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk insurance, if reasonably available, for all insurable Improvements on the Common Area. If blanket all-risk coverage is not reasonably available then, at a minimum, an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

The Board shall also obtain a public liability policy covering the Common Area, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The public liability policy shall have at least a One Million Dollar (\$1,000,000.00) single person limit with respect to bodily injury and property damage, a One Million Dollar (\$1,000,000.00) limit per occurrence, if reasonably available, and a Five Hundred Thousand Dollar (\$500,000.00) minimum property damage limit.

Premiums for all insurance on the Common Area shall be Common Expenses of the Association and shall be included in the Base Assessment, as defined in Article I, Section 4, and as more particularly described in Article IX, Section 1 of this Declaration. The policy may contain a reasonable deductible, and, in the case of casualty insurance, the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement costs. The deductible shall be

paid by the party who would be liable for the loss or repair in the absence of insurance and, in the event of multiple parties, shall be allocated in relation to the amount each party's loss bears to the total.

All insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for the respective benefited parties, as further identified in (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

- (a) All policies shall be written with a company licensed to do business in Florida which holds a Best's rating of A or better and is assigned a financial size category of XI or larger, as established by A.M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating.
- (b) All policies on the Common Area shall be for the benefit of the Association and its Members.
- (c) Exclusive authority to adjust losses under policies obtained by the Association on the Property shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.
- (e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the St. Lucie County, Florida, area.
- (f) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:
  - (i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners, and their respective tenants, servants, agents, and guests;
  - (ii) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

- (iii) a statement that no policy may be cancelled, invalidated, suspended, or subject to non-renewal on account of any one or more individual Owners;
- (iv) a statement that no policy may be cancelled, invalidated, suspended, or subject to non-renewal on account of the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand, in writing, delivered to the Association, to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or Mortgagee;
- (v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and
- (vi) that the Association will be given at least thirty (30) days prior written notice of any cancellation, substantial modification, or non-renewal.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent required by law, directors' and officers' liability coverage, and if reasonably available, a fidelity bond or bonds on directors, officers, employees, and other Persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined in the Board's best business judgment but, if reasonably available, may not be less than three (3) months' assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

## Section 2. Individual insurance.

By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Lot(s) and structures constructed thereon meeting the same requirements as set forth in Section 1 of this Article V for insurance on the Common Area. Each Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction of structures comprising his/her Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article X of this Declaration. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. In the event that the structure is totally destroyed, the Owner may decide not to rebuild or to reconstruct, in which case the

Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction and thereafter the Owner shall continue to maintain the Lot in a neat and attractive condition consistent with the Community-Wide Standard.

Section 3. Damage and Destruction.

(a) Immediately after damage or destruction by fire or other casualty to all or any part of the Property covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the properties to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless the Members representing at least seventy-five percent (75%) of the total vote of the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Area shall be repaired or reconstructed.

(c) In the event that it should be determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Property shall be restored to its natural state and maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

Section 4. Disbursement of Proceeds.

If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction to the Common Area shall be retained by and for the benefit of the Association and placed in a capital improvement account. In the event no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) as

their interest may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Lot and may be enforced by such Mortgagee.

Section 5. Repair and Reconstruction.

If the damage or destruction to the Common Area for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a special assessment against all Owners on the same basis as provided for Base Assessments. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

Article VI  
No Partition

Except as is permitted in this Declaration or amendments thereto, there shall be no physical partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Property or any part thereof seek any judicial partition unless the Property has been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

Article VII  
Condemnation

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members representing at least two-thirds (2/3) of the total Association vote and the Declarant, as long as the Declarant owns any property described on Exhibit "A", and with the written approval of St. Lucie West Development Corp.) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which Improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant, so long as the Declarant owns any property described in Exhibit "A" of this Declaration, and Members representing at least seventy-five percent (75%) of the total vote of the Association shall otherwise agree, the Association shall restore or replace such Improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with Plans approved by the Board of Directors of the Association. If such Improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any Improvements on the Common Area, or if there is a decision made not to repair or

restore, or if there are not funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

## Article VIII Rights and Obligations of the Association

### Section 1. Common Area.

The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all Improvements thereon (including, without limitation, common landscaped areas, roads and walls, if any), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard.

### Section 2. Personal Property and Real Property for Common Use.

The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within the Property conveyed to it by the Declarant or St. Lucie West Development Corp. or the Community Development District.

### Section 3. Rules and Regulations.

The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Property, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use the recreational facilities. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provide in the Bylaws of the Association.

The Association, through the Board, by contract or other agreement, shall have the right to enforce municipal or county ordinances or permit the City of Port St. Lucie and the County of St. Lucie to enforce ordinances on the Property for the benefit of the Association and its Members.

### Section 4. Implied Rights.

The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 5. Governmental Interests.

The Association shall permit the Declarant and St. Lucie West Development Corp. and the Community Development District to designate sites within the Property for water, sewer, or natural gas lines.

Article IX  
Assessments

Section 1. Creation of Assessments.

There are hereby created assessments for Common Expenses as may from time to time specifically be authorized by the Board of Directors to be commenced at the time and in the manner set forth in Section 6 of this Article. There shall be two (2) types of assessments: (a) Base Assessments to fund expenses for the benefit of all Members of the Association; and (b) Special Assessments as described in Section 3 below.

Base Assessments shall be levied equally on all Lots. Special Assessments shall be levied as provided in Section 3 below. Each Owner, by acceptance of his or her deed or recorded contract of sale for a Lot, is deemed to covenant and agree to pay these 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, plus costs, late fees, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest, costs, late fees, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Lot 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, except no first Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid as to any particular Lot. Such certificate shall be conclusive evidence of payment to the Association of such assessment therein stated to have been paid. The Association may require the advance payment of a processing fee not to exceed Fifty Dollars (\$50.00) for the issuance of such certificate.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the annual Base Assessment for delinquents. Unless the Board otherwise provides, the Base Assessments shall be paid in quarterly installments.

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 Lot. 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 to take some action or perform some function required to be taken or performed by 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 any municipal or other governmental authority.

Notwithstanding any provision to the contrary contained in this Declaration, so long as the Declarant is in control of the Association, the following shall apply. The Declarant shall have the option of determining a guaranteed amount to charge each Lot for assessments and exempting any Lots it owns from the obligation to pay assessments, in which event Declarant shall be obligated, during such time period, for the difference between the amount of annual assessments levied on the Lots subject to assessment (this is, other than those owned by Declarant) and the amount of actual expenditures required to operate the Association during the fiscal year, excluding any reserves. This obligation may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of these. The Declarant reserves the right to discontinue, and then recommence, this guaranteed assessment arrangement, and the right to increase the amount of the guaranteed assessment, from time to time, as Declarant in its sole discretion may determine.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expenses.

## Section 2. Computation of Assessment.

It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated costs of operating the Association during the coming year. The budget shall include a capital contribution in accordance with a capital budget separately prepared. The Board shall cause a copy of the budget and the amount of assessments to be levied against each Lot for the following year to be delivered to each Owner at least thirty (30) days prior to the end of the current fiscal year. The budget and the assessment shall become effective unless disapproved at a meeting of the Members by a vote of Members representing at least a majority of the total Class "A" vote in the Association and the vote of the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the



budget except on petition of the Members as provided for special meetings in Article II, Section 4, of the Bylaws.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

Section 3. Special Assessments.

In addition to the assessments authorized in Section 1 of this Article, the Association may levy a Special Assessment or Special Assessments provided that such assessments shall have the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

The Association may also levy a Special Assessment against any Member to reimburse the Association for costs incurred in bringing a Member and his or her Lot into compliance with the provisions of this Declaration, any amendments thereto, the Articles, the Bylaws, and the Association rules, which Special Assessment may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing.

Section 4. Lien for Assessments.

Upon recording of a notice of lien against any Lot, there shall exist a perfected lien for unpaid assessments prior and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any then existing first Mortgage of record, (meaning any recorded mortgage with first priority over all other Mortgages) made in good faith and for value.

Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure.

The Association, acting on behalf of the Owners, shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Association following foreclosure or deed in lieu of foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be assessed or levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Lot 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 may be maintained without foreclosing or waiving the lien securing the same. Under no circumstances shall the Board suspend the voting rights of a Member for nonpayment of any assessment.

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Section 5. Capital Budget and Contribution.

The Board of Directors may, if it so elects, annually prepare a capital budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. In preparing each capital budget, the Board may set the required capital contribution in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by annual assessments over the period of the budget. The capital contribution required may be fixed by the Board and included within and distributed with the budget and assessment, as provided in Section 2 of this Article.

Section 6. Date of Commencement of Annual Assessments.

The assessments provided for herein shall commence as to each Lot on the date of conveyance of the Lot by Declarant. The first annual assessment shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Lot.

Section 7. Subordination of the Lien to First Mortgage.

The lien of assessments, including interest, late charges (subject to the limitations of Florida law), and costs (including attorney's fees) provided for herein shall be subordinate to the lien of any recorded first Mortgage upon any Lot. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to judicial or non-judicial foreclosure of a first Mortgage or deed in lieu of such a foreclosure shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from lien rights for any assessments thereafter becoming due. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Lot obtains title pursuant to remedies under the first Mortgage, its successors and assigns shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to such Lot by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Lots, including such acquirer, its successors and assigns.

Section 8. Capitalization of Association.

Upon acquisition of record title to a Lot by the first purchaser thereof, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth (1/6) of the amount of annual Base Assessment per Lot for that year as determined by the Board. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in meeting unforeseen expenditures, purchasing equipment deemed necessary or desirable, or otherwise to cover Common Expenses properly incurred by the Association.

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Such contributions shall not be considered an advance payment of regular Base Assessments.

**Section 9. Exempt Property.**

Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Base Assessments and Special Assessments;

- (a) all Common Area; and
- (b) all property dedicated to and accepted by any governmental authority or public utility, including, without limitation, public schools, public streets and public parks, if any.

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**Article X**  
**Architectural Standards**

No construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements thereof have been fully met, and until the approval of the appropriate committee has been obtained.

**Section 1. New Construction Committee.**

The New Construction Committee ("NCC") shall have exclusive jurisdiction over all original construction on any portion of the Property. The NCC shall prepare and, on behalf of the Board of Directors, shall promulgate design and development guidelines and application and review procedures, all as part of the Community Development Code and Land Use Standards ("CDC-LUS"). Copies shall be available from the New Construction Committee for review. The guidelines and procedures shall be those of the Association, and the NCC shall have sole and full authority to prepare and to amend the CDC-LUS. It shall make the CDC-LUS available to Owners, builders, and developers who seek to engage in development of or construction upon all or any portion of the Property and such Owners, builders and developers shall conduct their operations strictly in accordance therewith. Until one hundred percent (100%) of the property contained in Exhibit "B" has been developed and conveyed to purchasers in the normal course of development and sale, St. Lucie West Development Corp. shall have the right to appoint all members of the NCC, which shall consist of at least three (3), but no more than five (5), persons, and shall have the sole authority and standing to enforce in courts of competent jurisdiction, decisions of the NCC. This Article X may not be amended until that time without consent of the St. Lucie West Development Corp. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by St. Lucie West Development Corp. Upon the expiration of such right, the Board of Directors shall appoint the members of the NCC in the same manner as provided in Section 2 of this Article for the Modifications Committee and shall have the authority and standing to enforce in courts of competent jurisdiction, decisions of the

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NCC. So long as St. Lucie West Development Corp. has the right to enforce the decisions of the NCC as to the Property, St. Lucie West Development Corp. may, from time to time, delegate such right to the Board of Directors, however such delegation in one instance shall not be construed to be a delegation in all instances, and St. Lucie West Development Corp. shall retain the right to rescind such delegation at any time.

This Section 1 may not be amended without the written consent of the St. Lucie West Development Corp., so long as St. Lucie West Development Corp. owns any land in Exhibit "B".

Section 2. Modifications Committee.

The Board of Directors may appoint a Modifications Committee ("MC") to consist of at least three (3) and no more than five (5) members, all of whom shall be appointed by the Board of Directors. The MC, if established, shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing Lots or structures and the open space, if any, appurtenant thereto.

The MC shall promulgate detailed standards and procedures governing its areas of responsibility and practice, consistent with the CDC-LUS. In addition thereto, the following shall apply: Plans and specifications showing the nature, kind, shape, color, size, materials, and location of such modifications, additions, or alterations, shall be submitted to the MC for approval as to quality of workmanship and design and as to harmony of external design with existing structures, location in relation to surrounding structures, topography, and finish grade elevation. No permission or approval shall be required to repaint in accordance with originally approved plans and specifications. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his/her residence, or to paint the interior of his/her residence any color desired. In the event that the MC fails to approve or to disapprove such plans or to request additional information reasonably required within forty-five (45) days after submission, the plans shall be deemed approved.

The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction, decisions of the MC.

Section 3. No Waiver of Future Approvals.

The approval by either the NCC or MC of any proposals or plans and specifications or drawings or any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

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Section 4. Variance.

The NCC may authorize variances from compliance with any of the provisions of the CDC-LUS when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the NCC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

Article XI  
Use Restrictions

The Property shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for the Association) as may more particularly be set forth in this Declaration or amendments hereto. The Association, acting through its Board of Directors, shall have standing and the power to enforce such standards.

The Association, acting through its Board of Directors, shall have authority to make and to enforce standards and restrictions governing the use of the Property, in addition to those contained herein, and to impose reasonable user fees for use of Common Area facilities. Such regulations and use restrictions shall be binding upon all Owners and occupants until and unless overruled, cancelled or modified in a regular or special meeting of the Association by Members representing a majority of the total Class "A" votes in the Association and by the vote of the Class "B" member, so long as such membership shall exist.

Section 1. Signs.

No sign of any kind shall be erected within the Property without the written consent of the NCC and St. Lucie West Development Corp. The NCC and/or Declarant each shall have the right to erect signs as they, at their discretion, deem appropriate, subject only to approval of the St. Lucie West Development Corp. An Owner or real estate broker licensed by the State of Florida, including his or her licensed sales agent, may place one "Open House" sign on a Lot listed for sale, subject to the following limitations: a) the Owner (for signs placed by Owner) or broker or sales agent (for signs placed by the broker) must be physically present on the Lot property at all times during the Open House; and b) the placement of such Open House signs on any given property is limited to no more than two (2) days per week, Saturday through Friday, inclusive, between the hours of 1:00 p.m. and 5:00 p.m.; and c) the sign must be approved by the NCC.

## Section 2. Parking and Garages.

Vehicles shall be parked only in garages or in the driveways serving the Lots or appropriate spaces or designated areas in which parking may or may not be assigned and then subject to such reasonable rules and regulations as the Board of Directors may adopt. All commercial vehicles, tractors, mobile homes, trucks (other than sport utility vehicles), recreational vehicles, trailers (either with or without wheels), campers, and camper trailers and boats of any kind must be parked entirely within a garage. No parking or storage of commercial vehicles, tractors, mobile homes, trucks (other than sport utility vehicles), recreational vehicles, trailers (either with or without wheels), campers, and camper trailers or boats of any kind shall be permitted in front, side or rear yards. For purposes of this Section, a fully-enclosed vehicle intended for private passenger use and commonly referred to as a "sport utility vehicle" or "SUV" shall be treated as an automobile. No garage may be altered in such a manner that the number of automobiles which may be reasonably parked therein after the alteration is less than the number of automobiles that could have reasonably been parked in the garage as originally constructed.

## Section 3. Occupants Bound.

All provisions of this Declaration, the Bylaws and or any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants of any Lot.

## Section 4. Animals and Pets.

No animals, livestock, or poultry of any kind shall be raised, bred, kept, or permitted on any Lot, except that dogs, cats, or other usual and common household pets not to exceed a total of two (2) may be permitted in a residence. However, those pets which are permitted to roam free, or, in the sole discretion of the Association, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any property located adjacent to or near the Property shall be removed upon request of the Board; if the Owner fails to honor such request, the pet may be removed by the Board. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs which are household pets shall at all times whenever they are outside a Lot be confined on a leash held by a responsible person. An Owner shall immediately pick up and remove any solid waste deposited by his/her pet on the Property, including the Common Areas. The breed of dog commonly known as "Pit Bull" is prohibited.

## Section 5. Nuisance.

No Lot shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept upon any Lot that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any property adjacent to the Lot. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Property.

## Section 6. Unsightly or Unkempt Conditions.

It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Lot. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Property.

## Section 7. Exterior Changes.

No exterior changes, modifications, additions or deletions of any kind may be made to a Lot or any structure thereon without the prior written consent of the NCC for as long as it is in existence and after that time, the prior written consent of the Board or its designee, or the MC, as the case may be.

## Section 8. Garbage Cans, Tanks, Etc.

All garbage cans, above-ground tanks, and other similar items shall be located or screened so as to be concealed from view of neighboring Lots, streets, and property located adjacent to the Lot. All rubbish, trash, and garbage shall be regularly removed from the Lot and shall not be allowed to accumulate thereon.

## Section 9. Subdivision of Lot.

No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board of Directors of the Association and St. Lucie West Development Corp., so long as it owns any land within St. Lucie West. Declarant, however, hereby expressly reserves the right to replat any Lot or Lots owned by Declarant, provided it first obtains the consent of St. Lucie West Development Corp.

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Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

Section 10. Guns.

The discharge of firearms within the Property is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size.

Section 11. Pools.

No above-ground pools shall be erected, constructed or installed on any Lot.

Section 12. Irrigation.

No sprinkler or irrigation systems of any type which draw upon water from creeks, streams, rivers, lakes, ponds, wetlands, canals or other ground or surface waters within the Property or the land contained in Exhibit "B" shall be installed, constructed or operated within the Property unless prior written approval has been received from the NCC. All sprinkler and irrigation systems shall be subject to approval in accordance with Article XI of this Declaration. Private irrigation wells are prohibited on the Property.

Section 13. Tents, Trailers and Temporary Structures.

Except as may be permitted by the NCC during initial construction or Lots or improvements thereon, no tent, utility shed, shack, trailer or other structure of a temporary nature shall be placed upon a Lot or any part of the Property.

Section 14. Drainage and Septic Systems.

Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than St. Lucie West Development Corp. or the Community Development District may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves for St. Lucie West Development Corp. and hereby grants to the Community Development District a perpetual easement across the Property for the purpose of altering drainage and water flow. Septic systems are prohibited on the Property.

Section 15. Tree Removal.

No trees shall be removed, except for diseased or dead trees and trees needing to be removed to promote the growth of other trees for safety reasons, unless approved in accordance with Article X of this Declaration.



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## Section 16. Site Distance at Intersections.

All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

## Section 17. Utility Lines.

No overhead utility lines, including lines for cable television, shall be permitted within the Property, except for temporary lines as required during construction and high voltage lines if required by law or for safety purposes.

## Section 18. Air Conditioning Units.

Except as may be permitted by the NCC so long as it shall exist and, thereafter, by the Board or its designee, no window air conditioning units may be installed in any residence.

## Section 19. Lighting.

Except for seasonal holiday decorative lights, which may be displayed between December 1 and January 10 only, all exterior lights must be approved in accordance with Article X of this Declaration.

## Section 20. Artificial Vegetation, Exterior Sculpture, and Similar Items.

No artificial vegetation, exterior sculpture, flags, fountains, or similar items shall be permitted on the exterior of any portion of the Property, except that one (1) United States flag may be displayed on each Lot provided that such flag is displayed in a respectful manner and otherwise is approved by the NCC so long as it shall exist and, thereafter, by the MC.

## Section 21. Energy Conservation Equipment.

No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the appropriate committee pursuant to Article X hereof.

## Section 22. Leasing of Lots.

(a) Definition. "Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument.

(b) Leasing Provisions.

(i) General. Homes or Lots may be rented only in their entirety; no fraction or portion may be rented. There shall be no subleasing of Homes or Lots or assignment of leases unless prior written approval is obtained from the Board of Directors. No transient tenants may be accommodated on a Lot. All leases shall be in writing and shall be for an initial term of no less than twelve (12) months, except with the prior written consent of the Board of Directors. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Lot Owner within ten (10) days of execution of the lease. The Owner must make available to the lessee copies of this Declaration, the Bylaws, and the rules and regulations of the Association.

(ii) Compliance with Declaration, Bylaws and Rules and Regulations. Every Owner shall cause all occupants of his or her Lot to comply with this Declaration, the Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Lot are fully liable and may be sanctioned for any violation of this Declaration, the Bylaws, and rules and regulations adopted pursuant thereto.

Section 23. Lakes and Water Bodies.

All lakes, ponds, and streams within the Property are to be used solely for stormwater management. No fishing, swimming, wading, diving, boating, use of personal watercraft nor any use other than stormwater management is permitted in or on such water bodies.

Section 24. Fences, Docks.

No dog runs, animal pens, fences, docks or other shoreline structures, shall be permitted on any Lot except as approved in accordance with Article X of this Declaration.

Section 25. Business Use.

No trade or business may be conducted on or from any Lot except that an Owner or occupant residing in a Home on a Lot may conduct business activities within the Home so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Home; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity does not involve persons coming onto the Property who do not reside in the Property or door-to-

door solicitation of residents of the Property; and (d) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board.

The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Lot in accordance with Article XII, Section 22, hereof shall not be considered a trade or business within the meaning of this Section.

# Article XII General Provisions

## Section 1. Term.

The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association, the St. Lucie West Development Corp. or the Owner of any portion of the Property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

## Section 2. Amendment.

Prior to the conveyance of the first Lot, and except as otherwise provided herein, Declarant may unilaterally amend this Declaration, subject only to the consent of the St. Lucie West Development Corp. After such conveyance, Declarant may amend this Declaration until Turnover Date, as defined in the Articles, and so long as the amendment has no material adverse effect upon any right of any Owner; thereafter and otherwise, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing seventy-five percent (75%) of the total votes of the Association, including seventy-five percent (75%) of the votes held by Members other than the Declarant. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the public records of St. Lucie County, Florida.

Notwithstanding any other provisions of this Declaration, and until termination of the Class "B" Control Period, this Declaration may not be amended without the express written consent of the St. Lucie West Development Corp.

If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority to so consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege. No amendment may remove, revoke, or modify any right or privilege of St. Lucie West Development Corp. without the written consent of St. Lucie West Development Corp. or the assignee of such right or privilege. No amendment may remove, revoke, or modify any right or privilege of the Community Development District without the written consent of the Community Development District or the assignee of such right or privilege.

### Section 3. Indemnification.

The Association shall indemnify every officer, director, and committee member against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member. The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member, or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

### Section 4. Easements of Encroachments.

There shall be reciprocal appurtenant easements of encroachment as between each Lot and such portion or portions of the Common Area adjacent thereto or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from

any point on the common boundary between each Lot and the adjacent portion of the Common Area or as between said adjacent Lot, as the case may be, along a line perpendicular to such boundary at such point; provided, however in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of an Owner, tenant, or the Association.

Section 5. Easements for Utilities, Etc.

There is hereby reserved unto Declarant, so long as the Declarant owns any property described on Exhibit "A", the Association, the Community Development District, St. Lucie West Development Corp., and the designees of each (which may include, without limitation, the City of Port St. Lucie, Florida; St. Lucie County, Florida; and any utility), blanket easements upon, across, over, and under all of the Common Area and, to the extent shown on any Plat, over the Lots for ingress, egress, installation, replacing, repairing, and maintaining cable television systems, master television antenna systems, security, and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas, and electricity.

Without limiting the generality of the foregoing, there are hereby reserved for the local waste water, irrigation, cablevision, and natural gas suppliers, easements across all Lots on the Property for ingress, egress, installation, reading, replacing, repairing, and maintaining water meter boxes.

Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Property, except as may be approved by the Association's Board of Directors or as provided by St. Lucie West Development Corp. Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement on the Property without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Property.

The Board shall have, by a two-thirds (2/3) vote, the power to dedicate portions of the Common Area to St. Lucie County, the City of Port St. Lucie, or any other local, state, or federal governmental entity, subject to such approval requirements as may be contained in Article XIII, Section 2 of this Declaration. Notwithstanding the foregoing sentence, neither the Association or any Member thereof shall take any action with respect to the Property which is intended to remove or has the effect of removing the Property from the jurisdiction of the City of Port St. Lucie, Florida.

Section 6. Easement to St. Lucie West Services District.

The officers, agents, employees and independent contractors of St. Lucie West Services District shall have a nonexclusive easement to enter upon any portion of the

Property for the purpose of performing or satisfying the duties and obligations of St. Lucie West Services District.

Section 7. Severability.

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 8. Right of Entry.

The Association shall have the right, but not the obligation, to enter into any Lot for emergency, security, and safety, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, fire department personnel, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter a Home to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board.

Section 9. Perpetuities.

If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 10. Litigation.

No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five percent (75%) of the Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article X hereof, (c) proceedings involving challenges to *ad valorem* taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Declarant or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 11. Use of the Words "St. Lucie West" or "Tortoise Cay".

No person shall use the words "St. Lucie West" or "Tortoise Cay" or any derivative thereof in any printed or promotional material without the prior written consent

of St. Lucie West Development Corp. However, Owners may use the term "St. Lucie West" or "Tortoise Cay" in printed or promotional matter where such term is used solely to specify that particular property is located within the St. Lucie West community.

**Section 12. Cooperation with St. Lucie West  
Community Development District.**

The Association shall have the power, and is hereby authorized, to contract with and to cooperate with the Community Development District in order to ensure that their respective responsibilities are discharged. The Association is further authorized to act on behalf of its Members to ensure that the level of services provided by the Community Development District is consistent with the Community-Wide Standard.

Each Owner, by acceptance of his or her deed or recorded contract of sale, is deemed to covenant and consent to the creation of the Community Development District, and to executing a separate document so consenting to the creation of the Community Development District, if requested to do so by Declarant or St. Lucie West Development Corp.

**Section 13. Cable Television.**

Each Home constructed upon a Lot shall be constructed and fully wired (for connection to a cable system at the outside edge of the residence) for not less than four (4) cable television outlets in accordance with precise specifications, as promulgated and as may be revised from time to time by the NCC. Each Lot Owner shall have the obligation to remit to the Association, a monthly charge, (initially not less than \$17.00 plus applicable tax, copyright and franchise fees) for basic cable television services, which charge shall be part of the assessments levied on the Lot and may be collected in the manner provided for assessments in Article IX hereof. If the Association is or becomes a party to an agreement for single bill ("bulk") service, such bulk rate charges shall be a Common Expense to be included in the Base Assessment levied on all Lots, and may be collected by the Association in the manner provided for assessments in Article IX hereof. To the extent that a bulk rate service arrangement is not available to the Owners, Owners shall have the obligation to remit cablevision charges directly to the cablevision company. The Association shall have the right to terminate cable television service for any Lot for which payment of any assessment or charge is delinquent by thirty (30) days or more, and Owner shall be responsible for any disconnection and/or reconnection fees as a result thereof.

**Article XIII  
Mortgage Provisions**

The following provisions are for the benefit of holders of first Mortgages on Lots in the Property. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

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OR BOOK 1349 PAGE 947

Section 1. Notices of Action.

An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Lot number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

- (a) any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;
- (b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Lot of any obligation under this Declaration or Bylaws of the Association which is not cured within sixty (60) days;
- (c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or
- (d) any proposed action which would require the consent of a specified percentage of eligible holders.

Section 2. Special FHLMC Provision.

So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least two-thirds (2/3) of the first Mortgagees or Members representing at least two-thirds (2/3) of the total Association vote entitled to be cast thereon consent, the Association shall not:

- (a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);



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- (b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Lot;
- (c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Lots and of the Common Area (The issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision.);
- (d) fail to maintain insurance, as required by this Declaration; or
- (e) use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 3. No Priority.

No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee or any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 4. Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Section 5. Amendment by Board.

Should the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

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OR BOOK 1349 PAGE 949

Section 6. Applicability of Article XIII.

Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, the Bylaws, or Florida law for any of the acts set out in this Article.

Section 7. Failure of Mortgagee to Respond.

Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

Article XIV  
Declarant's Rights

Any or all of the special rights and obligations of the Declarant may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the public records of St. Lucie County, Florida. Nothing in this Declaration shall be construed to require St. Lucie West Development Corp. or any successor to develop any of the Property set forth in Exhibit "B" in any manner whatsoever.

Notwithstanding any provisions contained in this Declaration to the contrary, so long as construction and initial sale of Lots shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Lots, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use Lots owned by the Declarant and any clubhouse or community center which may be owned by the Association, as models and sales offices, respectively.

So long as Declarant continues to have rights under this paragraph, no Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Property without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

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This Article may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Article shall terminate upon the earlier of (a) twenty-five (25) years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity within the Property has ceased.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 12 day of December, 2000.

Signed, sealed and Delivered  
in the presence of:

Declarant:  
St. Lucie West Development Corp.

Witness Signature

Printed Name: Shirley E. Smith

Signature

Printed Name: Paul J. Hegener  
President

Witness Signature

Printed Name: Jean E. Sakowski

STATE OF FLORIDA )

) SS:

COUNTY OF \_\_\_\_\_ )

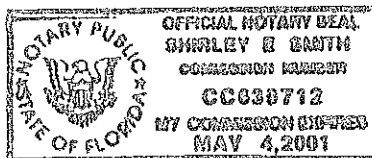
The foregoing instrument was acknowledged before me by Paul J. Hegener, as President of St. Lucie West Development Corp., a Delaware corporation, on behalf of the corporation and (check one):  
☒ is personally known to me - OR -  
☐ has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 12 day of December, 2000.

Notary Public

Typed, printed or stamped name of Notary Public

My Commission Expires:



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OR BOOK 1349 PAGE 951

JOINDER AND SUBORDINATION OF MORTGAGEE

ST. LUCIE WEST HOLDING CORP., a Delaware corporation, (the "Mortgagee"), the owner and holder of that certain mortgage from Balfour Lake Charles, Limited Partnership, a Florida limited partnership, and Balfour Holdings (Florida), Limited Partnership, to Morgens Waterfall Income Partners, a New York limited partnership, Restart Partners, L.P., a Delaware limited partnership, Restart Partners II, L.P., a Delaware limited partnership, Restart Partners III, L.P., a Delaware limited partnership and Restart Partners IV, L.P., a Delaware limited partnership, dated as of August 11, 1994 and recorded August 15, 1994 in Official Records Book 915, Page 201, as assigned to the Mortgagee in Official Records Book 1074, Page 503, all of the Public Records of St. Lucie County, Florida (the "Mortgage") which instrument encumbers a portion of the property described in Exhibit A (the "Property") to the foregoing Declaration of Covenants, Conditions and Restrictions for Tortoise Cay at St. Lucie West and does hereby consent to the Declarations of Covenants Conditions and Restrictions for Tortoise Cay at St. Lucie West, including the Articles of Incorporation and Bylaws and acknowledges that the lien of its Mortgage is subordinate to the provisions of the Declaration of Covenants, Conditions and Restrictions for Tortoise Cay at St. Lucie West, and all exhibits thereto, including the Articles of Incorporation and Bylaws (collectively, the "Declaration"), except as provided therein and except that the rights of Declarant under the Declaration shall be subject to the rights of the Mortgagee under the Mortgage and that the Declaration shall survive any foreclosure of the Mortgage and shall be binding upon all persons, and their successors in title claiming said Property; provided, however, that at no time before such foreclosure shall the foregoing Joinder obligate the Mortgagee to perform the covenants contained in or make any payments required by the Declaration and at no time shall the foregoing Joinder (i) impose any liability on the Mortgagee for any failure of any predecessor in interest to the Mortgagee to perform such covenants or make any payments required by the covenants, or (ii) be deemed a limitation on the operation or effect of the Mortgage except as specifically set forth in this Joinder.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed this 12 day of December, 2000.

Signed, Sealed and Delivered  
in the Presence of:

ST. LUCIE WEST HOLDING CORP., a  
Delaware corporation,

Jean E. Sakowski  
Signature  
Jean E. Sakowski  
Printed Name  
Shirley E. Smith  
Signature  
Shirley E. Smith  
Printed Name

By: [Signature]  
Printed Name Paul V. HERRICK  
Its: President

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STATE OF FLORIDA

) SS:

COUNTY OF ST. LUCIE

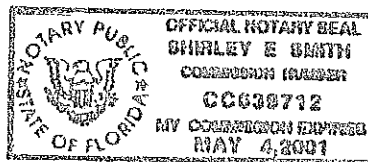
I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Paul J. Hegener as President of St. Lucie West Holding Corp., a Delaware corporation. He is personally known to me or has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 12 day of December, 2000.

Shirley E. Smith  
Notary Public, State of Florida

Shirley E. Smith  
Typed, printed or stamped name of Notary Public

My Commission Expires:



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OR BOOK 1349 PAGE 953

DESCRIPTION: PHASE I

A PARCEL OF LAND LYING IN SECTIONS 35 AND 36, TOWNSHIP 36 SOUTH, RANGE 39 EAST AND BEING A PORTION OF TRACT "B" AS SHOWN ON THE PLAT OF ST. LUCIE WEST PLAT NO. 6, THE VILLAGES AT ST. LUCIE WEST, PARCEL 2, AS RECORDED IN PLAT BOOK 27, PAGES 7, 7A AND 7B, A PORTION OF S.W. VILLAGE DRIVE AND TRACT OS-4 AS SHOWN ON THE PLAT OF ST. LUCIE WEST PLAT NO. 7, HEATHERWOOD, RECORDED IN PLAT BOOK 27, PAGES 8, 8A TO 8G, A PORTION OF TRACT "F" AND CONSERVATION TRACT NO. 16 AND ALL OF CONSERVATION TRACT NOS. 13 AND 17, AS SHOWN ON THE PLAT OF ST. LUCIE WEST PLAT NO. 29, THE VILLAGES AT ST. LUCIE WEST, PARCEL 2-PHASE 2, RECORDED IN PLAT BOOK 30, PAGES 3, 3A AND 3B AND ALL OF REVISED CONSERVATION TRACT NO. 16, AS DESCRIBED IN OFFICIAL RECORD BOOK 826, PAGE 1331, ALL OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF S.W. CALIFORNIA BOULEVARD AS SHOWN ON SAID PLAT NO. 6 AND THE NORTH RIGHT-OF-WAY LINE OF WEST VIRGINIA BOULEVARD AS SHOWN ON THE PLAT OF ST. LUCIE WEST PLAT NO. 92, W. VIRGINIA BLVD. & S.W. CALIFORNIA BLVD. R.O.W., RECORDED IN PLAT BOOK 36, PAGES 24 AND 24A, PUBLIC RECORDS OF SAID COUNTY; THENCE TRAVERSING THE EAST RIGHT-OF-WAY LINE OF SAID S.W. CALIFORNIA BOULEVARD THE FOLLOWING FOUR (4) COURSES:

1. NORTH  $00^{\circ}02'15''$  EAST, A DISTANCE OF 99.47 FEET TO A POINT OF CURVATURE WITH A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 1494.03 FEET;
2. NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF  $19^{\circ}48'13''$ , AN ARC DISTANCE OF 516.40 FEET TO A POINT OF TANGENCY WITH A LINE;
3. NORTH  $19^{\circ}45'59''$  WEST, ALONG SAID LINE, A DISTANCE OF 319.69 FEET TO A POINT OF CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 1824.78 FEET;
4. NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF  $08^{\circ}18'14''$  AN ARC DISTANCE OF 264.47 FEET TO A POINT OF RADIAL INTERSECTION WITH A LINE, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF A PARCEL OF LAND DESCRIBED BY DEED RECORDED IN OFFICIAL RECORD BOOK 826, PAGE 1325;

THENCE TRAVERSING THE SOUTH LINE OF SAID PARCEL OF LAND DESCRIBED BY DEED, THE FOLLOWING FOUR (4) COURSES;

1. NORTH  $78^{\circ}32'15''$  EAST, ALONG SAID LINE, A DISTANCE OF 234.81 FEET;
2. SOUTH  $90^{\circ}00'00''$  EAST, A DISTANCE OF 71.68 FEET;
3. SOUTH  $53^{\circ}17'54''$  EAST, A DISTANCE OF 82.45 FEET;

4. NORTH 85°37'26" EAST, A DISTANCE OF 331.23 FEET TO A POINT OF INTERSECTION ON THE NORTH LINE OF SAID TRACT "F";

THENCE TRAVERSING THE NORTH LINE OF SAID TRACT "F" THE FOLLOWING FIVE (5) COURSES:

1. SOUTH 73°47'42" EAST, A DISTANCE OF 481.08 FEET;
2. NORTH 73°13'46" EAST, A DISTANCE OF 169.90 FEET;
3. NORTH 00°01'17" WEST, A DISTANCE OF 129.83 FEET;
4. NORTH 33°57'50" EAST, A DISTANCE OF 226.87 FEET;
5. NORTH 89°58'25" EAST, A DISTANCE OF 206.35 FEET TO THE SOUTHWEST CORNER OF CONSERVATION TRACT NO. 10 AS SHOWN ON SAID PLAT NO. 29;

THENCE TRAVERSING THE SOUTH LINE OF SAID CONSERVATION TRACT NO. 10, THE FOLLOWING FIVE (5) COURSES:

1. SOUTH 75°44'31" EAST, A DISTANCE OF 221.18 FEET;
2. SOUTH 53°06'55" EAST, A DISTANCE OF 129.69 FEET;
3. SOUTH 68°57'48" EAST, A DISTANCE OF 89.26 FEET;
4. NORTH 82°16'59" EAST, A DISTANCE OF 84.88 FEET;
5. NORTH 60°28'59" EAST, A DISTANCE OF 220.82 FEET TO A POINT OF NON-RADIAL INTERSECTION WITH A CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 500.00 FEET, SAID POINT BEING THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF SAID S.W. VILLAGE DRIVE (THE RADIUS POINT OF SAID CURVE BEARS NORTH 80°35'08" EAST FROM THIS POINT);

THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE AND SAID SOUTHWESTERLY LINE, THRU A CENTRAL ANGLE OF 03°23'11" , AN ARC DISTANCE OF 29.55 FEET TO A POINT OF RADIAL INTERSECTION WITH A LINE; THENCE NORTH 83°58'19" EAST, ALONG SAID LINE, (DEPARTING SAID SOUTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 79.33 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF S.W. VILLAGE DRIVE; THENCE NORTH 76°24'53" EAST, DEPARTING SAID NORTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 30.46 FEET TO THE NORTHEAST CORNER OF WATER MANAGEMENT TRACT NO. 1, AS SHOWN ON SAID PLAT NO. 7; THENCE TRAVERSING THE SOUTHWESTERLY AND SOUTHERLY LINE OF SAID WATER MANAGEMENT TRACT NO. 1 THE FOLLOWING TWO (2) COURSES:

1. SOUTH 23°32'10" EAST, A DISTANCE OF 46.24 FEET TO A POINT OF CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 470.00 FEET;
2. SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 15°24'07" , AN ARC DISTANCE OF 126.34 FEET TO A POINT OF NON-RADIAL INTERSECTION WITH A LINE (THE RADIUS POINT OF SAID CURVE BEARS NORTH 51°03'43" EAST FROM THIS POINT);

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THENCE SOUTH 33°03'30" WEST, ALONG SAID LINE, A DISTANCE OF 140.88 FEET TO A POINT OF RADIAL INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 175.00 FEET; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 16°18'23", AN ARC DISTANCE OF 49.86 FEET TO A POINT OF NON-RADIAL INTERSECTION WITH A LINE (THE RADIUS POINT OF SAID CURVE BEARS SOUTH 49°19'53" WEST FROM THIS POINT); THENCE SOUTH 53°24'46" WEST, ALONG SAID LINE, A DISTANCE OF 174.03 FEET; THENCE SOUTH 08°19'08" WEST, A DISTANCE OF 24.09 FEET TO A POINT OF RADIAL INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 45.00 FEET; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 44°59'36", AN ARC DISTANCE OF 35.34 FEET TO A POINT OF TANGENCY WITH A LINE; THENCE SOUTH 38°41'16" EAST, ALONG SAID LINE, A DISTANCE OF 57.49 FEET TO A POINT OF CURVATURE WITH A CURVE CONCAVE TO THE WEST AND HAVING A RADIUS OF 45.00 FEET; THENCE SOUTHEASTERLY, SOUTHERLY AND SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 72°52'22", AN ARC DISTANCE OF 57.23 FEET TO A POINT OF TANGENCY WITH A LINE; THENCE SOUTH 34°11'07" WEST, ALONG SAID LINE, A DISTANCE OF 278.63 FEET; THENCE SOUTH 05°56'20" WEST, A DISTANCE OF 81.25 FEET; THENCE SOUTH 21°46'43" EAST, A DISTANCE OF 09°35'00" EAST, A DISTANCE OF 201.85 FEET; THENCE SOUTH 11°09'29" WEST, A DISTANCE OF 159.14 FEET; THENCE SOUTH 60°03'33" WEST, A DISTANCE OF 108.19 FEET; THENCE SOUTH 80°35'19" WEST, A DISTANCE OF 66.11 FEET TO A POINT OF INTERSECTION ON THE RIGHT-OF-WAY LINE OF SAID WEST VIRGINIA BOULEVARD; THENCE SOUTH 89°44'07" WEST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1938.16 FEET TO THE POINT OF BEGINNING.

CONTAINING 61.504 ACRES, MORE OR LESS

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EXHIBIT A  
PAGE 3 OF 6 PAGES



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OR BOOK 1349 PAGE 956

## DESCRIPTION: PHASE II

A PARCEL OF LAND LYING IN SECTION 36, TOWNSHIP 36 SOUTH, RANGE 39 EAST, AND BEING A PORTION OF TRACTS "B" AND "C" AS SHOWN ON THE PLAT OF ST. LUCIE WEST PLAT NO. 6, THE VILLAGES AT ST. LUCIE WEST, PARCEL 2, AS RECORDED IN PLAT BOOK 27, PAGES 7, 7A AND 7B AND A PORTION OF S.W. VILLAGE DRIVE AND TRACT OS-4 AS SHOWN ON THE PLAT OF ST. LUCIE WEST PLAT NO. 7, HEATHERWOOD, RECORDED IN PLAT BOOK 27, PAGES 8, 8A TO 8G, ALL OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF S.W. CASHMERE BOULEVARD AS SHOWN ON SAID PLAT NO. 6 AND THE NORTH RIGHT-OF-WAY LINE OF WEST VIRGINIA BOULEVARD AS SHOWN ON THE PLAT OF ST. LUCIE WEST PLAT NO. 92, WEST VIRGINIA BOULEVARD AND S.W. CALIFORNIA BOULEVARD RIGHT-OF-WAY, RECORDED IN PLAT BOOK 36, PAGES 24 AND 24A, PUBLIC RECORDS OF SAID COUNTY; THENCE TRAVERSING THE NORTH RIGHT-OF-WAY LINE OF SAID WEST VIRGINIA BOULEVARD THE FOLLOWING TWO (2) COURSES:

1. SOUTH 89°45'21" WEST, A DISTANCE OF 2597.57 FEET;
2. SOUTH 89°44'07" WEST, A DISTANCE OF 658.60 FEET;

THENCE NORTH 80°35'19" EAST, DEPARTING SAID NORTH RIGHT-OF-WAY LINE A DISTANCE OF 66.11 FEET; THENCE NORTH 60°03'33" EAST, A DISTANCE OF 108.19 FEET; THENCE NORTH 11°09'29" EAST, A DISTANCE OF 159.14 FEET; THENCE NORTH 09°35'00" WEST, A DISTANCE OF 201.85 FEET; THENCE NORTH 77°12'48" WEST, A DISTANCE OF 77.76 FEET; THENCE NORTH 49°29'45" WEST, A DISTANCE OF 89.86 FEET; THENCE NORTH 21°46'43" WEST, A DISTANCE OF 87.77 FEET; THENCE NORTH 05°56'20" EAST, A DISTANCE OF 81.25 FEET; THENCE NORTH 34°11'07" EAST, A DISTANCE OF 278.63 FEET TO A POINT OF CURVATURE WITH A CURVE CONCAVE TO THE WEST AND HAVING A RADIUS OF 45.00 FEET; THENCE NORTHEASTERLY, NORTHERLY, AND NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 72°52'22", AN ARC DISTANCE OF 57.23 FEET TO A POINT OF TANGENCY WITH A LINE; THENCE NORTH 38°41'16" WEST, A DISTANCE OF 57.49 FEET TO A POINT OF CURVATURE WITH A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 45.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 44°59'36", AN ARC DISTANCE OF 35.34 FEET TO A POINT OF RADIAL INTERSECTION WITH A LINE; THENCE NORTH 06°19'08" EAST, ALONG SAID LINE A DISTANCE OF 24.90 FEET; THENCE NORTH 53°24'46" EAST, A DISTANCE OF 174.03 FEET TO A POINT OF NON-RADIAL INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 175.00 FEET (THE RADIUS POINT OF SAID CURVE BEARS SOUTH 48°19'53" WEST FROM THIS POINT); THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 16°19'23", AN ARC

DISTANCE OF 49.86 FEET TO A POINT OF RADIAL INTERSECTION WITH A LINE; THENCE NORTH 33°00'30" EAST, ALONG SAID LINE A DISTANCE OF 145.88 FEET TO A POINT OF NON-RADIAL INTERSECTION WITH A CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 470.00 FEET (THE RADIUS POINT OF SAID CURVE BEARS NORTH 50°26'37" EAST FROM THIS POINT); SAID POINT ALSO BEING ON THE SOUTHWESTERLY LINE OF WATER MANAGEMENT TRACT NO. 1 AS SHOWN ON SAID PLAT NO. 7; THENCE TRAVERSING THE SOUTHWESTERLY LINE OF SAID WATER MANAGEMENT TRACT NO. 1 BY THE FOLLOWING FOUR (4) COURSES:

1. SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 01°56'22", AN ARC DISTANCE OF 15.91 FEET TO A POINT OF COMPOUND CURVATURE WITH A CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 690.00 FEET;
2. SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 41°13'34", AN ARC DISTANCE OF 496.48 FEET TO A POINT OF TANGENCY WITH A LINE;
3. SOUTH 82°06'13" EAST, ALONG SAID LINE, A DISTANCE OF 114.23 FEET TO A POINT OF CURVATURE WITH A CURVE CONCAVE TO THE NORTH AND HAVING A RADIUS OF 1240.00 FEET;
4. EASTERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 16°00'47", AN ARC DISTANCE OF 346.55 FEET TO A POINT OF RADIAL INTERSECTION WITH A LINE, SAID POINT BEING THE MOST WESTERLY CORNER OF THE PLAT OF ST. LUCIE WEST PLAT NO. 45, HEATHERWOOD PHASE TWO, RECORDED IN PLAT BOOK 32, PAGES 12, 12A TO 12C, PUBLIC RECORDS OF SAID COUNTY;

THENCE TRAVERSING THE BOUNDARIES OF WATER MANAGEMENT TRACT NO. 5, S.W. MAPLEWOOD DRIVE AND WATER MANAGEMENT TRACT NO. 4 AS SHOWN ON SAID ST. LUCIE WEST PLAT NO. 45, BY THE FOLLOWING FIVE (5) COURSES:

1. SOUTH 80°06'59" EAST, ALONG SAID LINE, A DISTANCE OF 224.48 FEET;
2. SOUTH 55°33'51" EAST, A DISTANCE OF 67.63 FEET;
3. NORTH 77°00'43" EAST, A DISTANCE OF 484.91 FEET;
4. SOUTH 85°29'17" EAST, A DISTANCE OF 890.88 FEET;
5. NORTH 89°54'27" EAST, A DISTANCE OF 664.98 FEET TO A POINT OF NON-RADIAL INTERSECTION WITH A CURVE CONCAVE TO THE EAST AND HAVING A RADIUS OF 5730.19 FEET (THE RADIUS POINT OF SAID CURVE BEARS SOUTH 85°59'02" EAST FROM THIS POINT) SAID POINT ALSO BEING ON THE SAID WEST RIGHT-OF-WAY LINE OF S.W. CASHMERE BOULEVARD;

THENCE TRAVERSING THE SAID WEST RIGHT-OF-WAY LINE, BY THE FOLLOWING TWO (2) COURSES:

# COPY

OR BOOK 1349 PAGE 95B

1. SOUTHERLY, ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF  $04^{\circ}07'50''$  AN ARC DISTANCE OF 413.11 FEET TO A POINT OF TANGENCY WITH A LINE;
2. SOUTH  $00^{\circ}08'53''$  EAST, A DISTANCE OF 379.44 FEET TO THE POINT OF BEGINNING.

CONTAINING 65.538 ACRES, MORE OR LESS.

# COPY

# COPY

LEGAL DESCRIPTION: OVERALL ST. LUCIE WEST  
A PORTION OF SECTIONS 23, 26, 34 AND 35 AND ALL OF SECTIONS 24, 25 AND  
36, TOWNSHIP 36 SOUTH, RANGE 39 EAST, AND PORTIONS OF SECTIONS 19, 30  
AND 31, TOWNSHIP 36 SOUTH, RANGE 40 EAST, ALL IN ST. LUCIE COUNTY,  
FLORIDA, PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SECTION 35, TOWNSHIP 36  
SOUTH, RANGE 39 EAST, RUN THENCE SOUTH 89 DEGREES 59 MINUTES 48  
SECONDS WEST, A DISTANCE OF 460.96 FEET TO THE EASTERLY RIGHT-OF-  
WAY LINE OF I-95, ALSO KNOWN AS STATE ROAD 9, AND SHOWN ON RIGHT-OF-  
WAY MAP NO. SECTION 94001-2412, SHEET 4 OF 14; RUN THENCE IN A  
NORTHERLY DIRECTION ALONG THE EAST RIGHT-OF-WAY LINE OF SAID I-95  
THE FOLLOWING COURSES AND DISTANCES:

THENCE NORTH 23 DEGREES 34 MINUTES 44 SECONDS EAST A DISTANCE OF  
1, 536.27 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE  
WEST, HAVING A RADIUS OF 5, 903.58 FEET; THENCE NORTHERLY ALONG THE  
ARC OF SAID CURVE 2, 241.45 FEET THROUGH A CENTRAL ANGLE OF 21  
DEGREES 45 MINUTES 14 SECONDS; THENCE NORTH 01 DEGREES 49 MINUTES  
30 SECONDS EAST A DISTANCE OF 4, 295.10 FEET; THENCE CONTINUE NORTH  
01 DEGREES 40 MINUTES 30 SECONDS EAST ALONG THE EASTERLY RIGHT-OF-  
WAY LINE OF SAID I-95 A DISTANCE OF 3, 386.92 FEET TO THE POINT OF  
CURVATURE OF A CURVE CONCAVE TO THE WEST AND HAVING A RADIUS OF  
11, 633.16 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE A  
DISTANCE OF 1, 750.36 FEET THROUGH A CENTRAL ANGLE OF 08 DEGREES 37  
MINUTES 15 SECONDS TO A POINT OF TANGENCY; THENCE NORTH 06  
DEGREES 47 MINUTES 46 SECONDS WEST A DISTANCE OF 1, 054.70 FEET TO  
THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE EAST HAVING A  
RADIUS OF 11, 285.16 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID  
CURVE A DISTANCE OF 1, 338.58 FEET THROUGH A CENTRAL ANGLE OF 06  
DEGREES 47 MINUTES 46 SECONDS TO THE POINT OF TANGENCY; THENCE  
NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 532.68  
FEET TO THE INTERSECTION POINT OF SAID EASTERLY RIGHT-OF-WAY LINE  
OF I-95 AND THE NORTH SECTION LINE OF SECTION 23, TOWNSHIP 36 SOUTH,  
RANGE 39 EAST.

SAID POINT ALSO BEING THE SOUTHWEST CORNER OF THE PLAT OF PORT ST.  
LUCIE SECTION 44 AS RECORDED IN PLAT BOOK 16, PAGE 23, ST. LUCIE  
COUNTY, FLORIDA, PUBLIC RECORDS; RUN THENCE NORTH 89 DEGREES 22  
MINUTES 57 SECONDS EAST ALONG SAID SOUTH LINE OF THE PLAT OF PORT  
ST. LUCIE SECTION 44 AND THE NORTH LINE OF SAID SECTION 23, A DISTANCE  
OF 2, 020.97 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 23,  
RUN THENCE NORTH 89 DEGREES 46 MINUTES 24 SECONDS EAST A DISTANCE  
OF 2, 671.27 FEET TO THE NORTHEAST CORNER OF SAID SECTION 23; RUN  
THENCE SOUTH 89 DEGREES 44 MINUTES 41 SECONDS EAST CONTINUING  
ALONG THE SOUTH LINE OF SAID PLAT OF PORT ST. LUCIE SECTION 44 AND  
THE NORTH LINE OF SECTION 24, TOWNSHIP 36 SOUTH, RANGE 39 EAST, A  
DISTANCE OF 5, 282.95 FEET TO THE NORTHEAST CORNER OF SAID SECTION  
24; RUN THENCE NORTH 89 DEGREES 43 MINUTES 32 SECONDS EAST ALONG

THE SAID SOUTH LINE OF THE PLAT OF PORT ST. LUCIE SECTION 44 AND THE NORTH LINE OF SECTION 19, TOWNSHIP 36 SOUTH, RANGE 40 EAST, A DISTANCE OF 2, 658.50 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 19 AND THE WESTERLY RIGHT-OF-WAY LINE OF THE SUNSHINE STATE PARKWAY, AS SHOWN THE FLORIDA STATE TURNPIKE AUTHORITY RIGHT-OF-WAY MAP OF SECTION 8, ST. LUCIE COUNTY, JOB AND CONTRACT NO. 6.3, SHEET 8 OF 12; RUN THENCE SOUTHERLY ALONG THE NORTH/SOUTH ONE QUARTER (1/4) LINE OF SECTIONS 19 AND 30, TOWNSHIP 36 SOUTH, RANGE 40 EAST, ALSO BEING THE WESTERLY RIGHT-OF-WAY LINE OF SAID SUNSHINE STATE PARKWAY THE FOLLOWING COURSES AND DISTANCES: THENCE SOUTH 00 DEGREES 02 MINUTES 01 SECONDS WEST A DISTANCE OF 5, 291.20 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 19; THENCE SOUTH 00 DEGREES 18 MINUTES 33 SECONDS EAST A DISTANCE OF 2, 788.11 FEET; THENCE CONTINUE TO RUN SOUTH 00 DEGREES 18 MINUTES 33 SECONDS EAST ALONG THE SAID WEST RIGHT-OF-WAY A DISTANCE OF 2, 541.48 FEET TO THE SOUTH QUARTER CORNER OF SECTION 30, TOWNSHIP 36 SOUTH, RANGE 40 EAST; THENCE SOUTH 00 DEGREES 15 MINUTES 12 SECONDS WEST ALONG THE NORTH/SOUTH ONE-QUARTER (1/4) SECTION LINE OF SECTION 31, TOWNSHIP 36 SOUTH, RANGE 40 EAST AND ALONG SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 5, 334.47 FEET TO THE SOUTH ONE-QUARTER (1/4) SECTION CORNER OF SAID SECTION 31 AND THE NORTH LINE OF THE PLAT OF PORT ST. LUCIE SECTION 9, AS RECORDED IN PLAT BOOK 12, PAGE 39, ST. LUCIE COUNTY PUBLIC RECORDS; RUN THENCE NORTH 89 DEGREES 48 MINUTES 31 SECONDS WEST ALONG THE SOUTH LINE OF SAID SECTION 31 AND THE NORTH LINE OF SAID PLAT OF PORT ST. LUCIE SECTION 31 AND THE NORTH LINE OF SAID PLAT OF PORT ST. LUCIE SECTION 9, A DISTANCE OF 2, 631.43 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 31; RUN THENCE SOUTH 89 DEGREES 44 MINUTES 44 SECONDS WEST ALONG THE SOUTH LINE OF SECTION 36, TOWNSHIP 36 SOUTH, RANGE 39 EAST AND THE NORTH LINE OF THE PLAT OF PORT ST. LUCIE SECTION 8, AS RECORDED IN PLAT BOOK 12, PAGE 38, OF SAID ST. LUCIE COUNTY PUBLIC RECORDS, A DISTANCE OF 5, 314.49 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 36; RUN THENCE SOUTH 89 DEGREES 56 MINUTES 26 SECONDS WEST ALONG THE SOUTH LINE OF SECTION 35, TOWNSHIP 36 SOUTH, RANGE 39 EAST AND THE NORTH LINE OF THE PLAT OF PORT ST. LUCIE SECTION 20, AS RECORDED IN PLAT BOOK 13, PAGE 21 OF SAID ST. LUCIE COUNTY PUBLIC RECORDS, A DISTANCE OF 5, 297.97 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 35 AND THE POINT OF BEGINNING.

# State of Florida



## Department of State

I certify from the records of this office that TORTOISE CAY AT ST. LUCIE WEST RESIDENTS' ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed on December 11, 2000.

The document number of this corporation is N000000008140.

I further certify that said corporation has paid all fees due this office through December 31, 2000, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

COPY

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capitol, this the  
Eleventh day of December, 2000



CR2EO22 (1-99)

*Katherine Harris*

Katherine Harris  
Secretary of State

EXHIBIT C  
PAGE 1 OF 11 PAGES