

This Instrument Prepared by and Return to:

**Erik S. Bloom**

Law Offices of Erik S. Bloom, PA  
100410 Overseas Highway, #203  
Key Largo, FL 33037

Property Appraisers Parcel Identification (Folio) Number: 00093940-000000

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**DECLARATION OF PROTECTIVE COVENANTS, RESTRICTIONS AND EASEMENTS OF  
“PEACEFUL PALMS”, A VACATION HOME DEVELOPMENT**

THIS DECLARATION, made by Sabalo Development LLC, a Tennessee limited liability company, hereinafter referred to as "Declarant."

**WITNESSETH:**

WHEREAS, Declarant is the sole fee simple equitable and legal owner of all of that certain real property located in Monroe County, Florida more particularly described in Exhibit “A” annexed hereto (the "Property"); and

WHEREAS, in order to develop the Property into a vacation home community known as “PEACEFUL PALMS”, a Vacation Home Development" (hereinafter, “PEACEFUL PALMS”) and to preserve and enhance the values and amenities of “PEACEFUL PALMS” and the architectural integrity and standard of “PEACEFUL PALMS”, it is necessary to declare and subject the Property to certain land use covenants, easements, restrictions, reservations, regulations, burdens and liens and to delegate certain powers, controls, easements and other rights to the Homeowner’s association to be formed for such purposes; and

WHEREAS, Declarant has caused Peaceful Palm’s Homeowner’s Association, Inc., a Florida not for profit corporation, the Members of which shall be the respective Owners of Residential Units in “PEACEFUL PALMS”, to be formed for the purpose of exercising the functions aforesaid; and

WHEREAS, Declarant intends to develop and/or operate all of the properties comprising PEACEFUL PALMS pursuant to a general plan and subject to certain covenants and restrictions, all running with title to the Property as hereinafter set forth.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, Declarant hereby declares that the Property shall be owned, held, transferred, sold, conveyed, used and occupied subject to the covenants, easements, restrictions, reservations, regulations, burdens and liens hereinafter set forth, and the provisions of this Declaration shall be covenants running with the lands which comprise the Property, i.e. “PEACEFUL PALMS”, and shall be binding on all parties having any right, title or interest in “PEACEFUL PALMS” or in any portion thereof, their heirs, personal representatives, successors and assigns and shall inure to any portion of PEACEFUL PALMS. The easements, restrictions,

covenants, conditions, reservations, liens, charges and equitable servitudes set forth herein shall (i) run with the title to "PEACEFUL PALMS" or any portion thereof (including the respective appurtenances thereto) and the Common Properties and shall be binding upon and inure to the benefit of all persons having any right, title or interest therein, or any part thereof, their heirs, executors, personal representatives, successors and assigns; (ii) shall, without limiting the generality of the foregoing, inure to the benefit of and be binding upon Declarant, its successors and each Owner, and his, her or their respective successors-in-interest and his, her or their agents, savants, employees, contractors, tenants, invitees, licensees and guests; and (iii) may be enforced by any Owner and any Owner's successors-in-interest, including a mortgagee who has acquired the interest of any Owner by foreclosure or by deed in lieu of foreclosure, by the Association, and by the Declarant so long as it owns any portion of the Property (including, but not limited to, any Lot, Residential Unit or other portion of "PEACEFUL PALMS").

### **ARTICLE I ESTABLISHMENT OF "PEACEFUL PALMS"**

1.1. Establishment. "PEACEFUL PALMS" is hereby established by Declarant and the Property is hereby governed, restricted and in all manner encumbered by this Declaration and all amendments hereafter made in accordance with the provisions herein.

1.2 Existing Property. The parcel of real property which is presently owned in fee simple by Declarant and which shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Monroe County, Florida and is more particularly described in Exhibit "A" annexed hereto.

1.3 Development Plan. The property described in Exhibit "A" herein is being developed as a vacation home development consisting of up to 15 vacation townhomes (each, a "Residential Unit") to be known as "PEACEFUL PALMS", a Vacation Home Development. The 15 vacation townhomes shall be located in 5 separate multi-unit buildings with each such building containing 3 vacation townhomes. Each Residential Unit will be owned by an owner, as hereinafter defined, in fee simple. Reference herein to properties within "PEACEFUL PALMS" shall not create any right title or interest therein or constitute constructive notice thereof of any right, title or interest by any person or persons claiming by, through, under or against Declarant unless and until said property, or any portion thereof, has been deeded by the Declarant to an Owner. Nothing herein contained shall impose upon the Declarant an obligation or commitment to develop and construct or complete the development plan. Further, notwithstanding that an Owner may have acquired a Residential Unit as then depicted in a site plan proposed by Declarant, any reliance given to such site plan by an Owner shall not prohibit Declarant from modifying the site plan for "PEACEFUL PALMS". Specifically, Declarant reserves all rights and powers provided in this Declaration, including, without limitation, the right to amend the Master Site Plan for the purpose of decreasing or increasing the aggregate number of Residential Units buildable on the Property, and those additional rights, reservations and exemptions more particularly enumerated in Articles XI and XII hereof.

### **ARTICLE II DEFINITIONS**

2.1 Interpretation and Flexibility. The defined terms set forth below shall apply to all capitalized terms used in this Declaration unless the context shall require a contrary interpretation. In the event of any ambiguity or question as to whether any person, entity, property or improvement shall fall within any of the definitions contained in this Article, Declarant's determination (as evidenced by a recorded amendment to this Declaration) shall be binding and conclusive.

2.2 "Affiliate" shall mean, when used to modify the term "Declarant", any person or entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the Declarant. The term "control" as used in this definition means the possession, direct or indirect,

of the power to direct or cause the direction of the management and policies of person, corporation, partnership or other association, whether through the ownership of voting securities, by contract or otherwise.

2.3 "Articles" means the Articles of Organization of the Association which have been filed in the office of the Secretary of State, State of Florida for the "PEACEFUL PALMS" Property Owners' Association, Inc., a Florida not-for-profit corporation, as the same may be amended from time to time, a true copy of which are attached hereto as Exhibit "B".

2.4 "Assessment" means a share of the funds required for payment of Common Expenses, which from time to time is charged to the Residential Unit Owner(s) .

2.5 "Assigns" means any person to whom some or all rights of an Owner have been validly transferred by sale, lease, mortgage or otherwise.

2.6 "Association" means Peaceful Palms Homeowner's Association, Inc., a not-for-profit Florida corporation, which is the entity responsible for the operation of PEACEFUL PALMS .

2.7 "Board of Administration" or "Board" means the board of directors responsible for administration of the Association.

2.8 "Building(s)" means the building(s) consisting of the attached, semi-detached and detached townhome-like structures and other improvements situated on the Property, all as more fully described herein.

2.9 "By-Laws" means the by-laws of the Association, as they exist from time to time, a true copy of which are attached hereto as Exhibit "C" .

2.10 INTENTIONALLY DELETED

2.11 "Committee" means the Architectural Control Committee.

2.12 "Common Expenses" means all expenses and assessments properly incurred by the Association for "PEACEFUL PALMS", including, without limitation:

- A. expenses of operation, maintenance, repair or replacement of Common Properties;
- B. costs of carrying out the powers and duties of the Association; and
- C. any other expenses designated as Common by this Declaration or the By-Laws.

2.13 "Common Properties" means those portions of "PEACEFUL PALMS" excluding all Residential Units but including entranceways, lighting equipment, roadways, easements, sidewalks and walkways, paths, lawns, fire lanes, green belts, fences, parking areas and Recreational Facilities (including, but not limited to pool and docks), and personal property used in connection with such portions of "PEACEFUL PALMS"; where the context so requires "Common Properties" shall include Limited Common Properties, as hereinafter defined. Notwithstanding the foregoing, until such time as Declarant has sold all of the Units in "PEACEFUL PALMS", Declarant reserves the right to sell parking spaces to Unit owners, and in such event, such parking spaces that are sold shall not be Common Properties, but shall be owned in fee simple by the purchaser.

2.14 "Common Receipts" means the following items collected by the Association on behalf of the Members:

- A. funds collected from Owners for payment of Common Expenses or otherwise; and
- B. receipts designated as common by law, this Declaration or the By-Laws.

2.15 INTENTIONALLY DELETED

2.16 "Common Surplus" means the excess of all Common Receipts over Common Expenses.

2.17 "County" means Monroe County, Florida and its duly authorized agencies and authorities, as applicable.

2.18 "Declarant" means (a) Sabalo Development LLC, a Tennessee limited liability company, its successors and those to which Declarant's rights hereunder shall be assigned specifically; and (b) for purposes of taking actions on Declarant's behalf under this Declaration, Declarant's duly appointed agent(s). Declarant shall have the right to assign all or a portion of its rights hereunder in connection with all or a portion of PEACEFUL PALMS. In the event of any partial assignment, the assignee shall not be deemed a "Declarant," but shall have all such rights as specifically assigned to it. As used with regard to Declarant, "successors and/or assigns" specifically does not include transferees of individual Residential Units.

2.19 "Declaration" means this Declaration of Covenants, Restrictions and Easements of PEACEFUL PALMS, a Vacation Home Development, being established pursuant to this Declaration, including all Exhibits annexed hereto, as well as all amendments to this Declaration s, if and when filed of record.

2.20 "Improvement" means any structure or artificially and intentionally created condition, together with all appurtenances thereto, of every type and kind located within "PEACEFUL PALMS", including, without limitation, buildings, walkways, bulkheads, sprinkler pipes, roads, sidewalks, alleys, street lights, driveways, parking areas, fences, screening walls, retaining walls, stairs, docks, landscaping, windbreaks, planted trees and shrubs, conduits for telephone lines, storm drainage, cable television lines and site lighting poles, signs and shared equipment and/or utility-type services such as water, sewer and electrical systems, and other commonly shared equipment and/or utility-type services, if any.

2.21 "Institutional Lender" means any bank, insurance company, FHA approved mortgage lending institution, recognized pension fund investing in mortgages or federal or state savings and loan association which has a mortgage lien upon any Residential Unit or which has acquired and holds title to such Residential Unit either as a result of its foreclosure of any such mortgage lien or by its receipt of a deed in lieu of foreclosure.

2.22 "Insurance Trustee" means a bank, insurance company, federal or state savings and loan association which has been approved pursuant to Article 14 hereof.

2.23 "Limited Common Properties" means those portions of the Common Property which are for the exclusive use of the Management Company, the Association, or one or more specified Residential Unit to the exclusion of other Residential Units, as the case may be.

2.24 "Lot" means a vacation home lot, as tentatively shown in the Master Site Plan, and as ultimately determined in the surveyor's certificate to be attached to the deed of conveyance from Declarant to an Owner, which deed shall be recorded in the County Records, and any and all improvements thereon.

2.25 "Management Company" means such management company retained from time to time by the Association and offering management services for the renting, maintenance and related services to Owners to facilitate the renting of Residential Units to vacationers and other transient users .

2.26 "Master Site Plan" means the Master Site Plan of the Property filed with and approved by the Village of Islamorada, as same may be amended from time to time.

2.27 "Member" means member of the Association.

2.28 "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Residential Unit.

2.29 "Property" means the real property described in Exhibit "A", as the same may be amended from time to time by Declarant by acquiring other portions of real property contiguous to the real property described on Exhibit "A".

2.30 "Recreational Facilities" means the docks, marina area, pool, pool decks, clubhouse, and park area as the same may be hereinafter ultimately constructed and located by Declarant and as the same may be thereafter altered, amended or relocated hereinafter by the Declarant in its sole discretion.

2.31 "Rental Agreement" means the rental agreement which an Owner may, at Owner's election, enter into with Management Company for the purpose of renting and managing the Owner's Residential Unit.

2.32 "Rental Agreement Participant" means an Owner entering a Rental Agreement

2.33 "Renter" means the person or persons renting a Residential Unit for vacation or other transient purposes pursuant to an arrangement directly between an Owner or through the Management Company.

2.34 "Residential Unit" means each attached dwelling together with that portion of land located within the property line of the area to be deeded in fee simple by the Declarant to Owner. Each such Residential Unit's boundary line shall be specifically set forth on a deed of conveyance from Declarant and with reference to a survey. The Declarant reserves the right to adjust the boundary lines between adjoining Residential Units at any time prior to the initial conveyance thereof to Owner by Declarant. It is hereby declared that by reason of this Declaration each parcel of real property constituting a Residential Unit shall be legally described and conveyed with the form of reference as follows, as may be amended by the Village of Islamorada and/or Monroe County (note as of the date of recordation of this Declaration, the Village of Islamorada is still finalizing the legal descriptions for all 15 Residential Units):

Unit \_\_\_\_\_, of PEACEFUL PALMS, according to the DECLARATION OF PROTECTIVE COVENANTS, RESTRICTIONS AND EASEMENTS OF PEACEFUL PALMS, a Vacation Home Development, as Recorded in Official Records Book \_\_\_\_\_, Page \_\_\_\_\_ of the Public Records of Monroe County, Florida, and any amendment(s) thereto.

If applicable, such legal shall also include an attachment as an exhibit to the deed of the metes and bounds description for Lot and Residential Unit.

2.35 "Voting Interest" means the right to vote the respective votes assigned to Residential Units to wit: each Residential Unit shall have one (1) vote.

### **ARTICLE III PROPERTY RIGHTS**

3.1 Owner's Easement of Enjoyment. Every Owner shall have a non-exclusive, common right and easement of ingress and egress and of enjoyment in, to and over, and use of, the Common Properties which easement right shall be appurtenant to and shall pass with but shall not be separated from title to every Residential Unit within "PEACEFUL PALMS", subject to the following conditions:

A. The right of the Association to reasonably limit the number of guests, invitees or licensees using the Common Properties, except as provided by law or herein to the contrary. Any such limitation which unfairly discriminates against Renters, as opposed to Owners, shall be unreasonable and unenforceable.

B. Uniform rules and regulations established by the Association from time to time pertaining to the use of the Common Properties, Residential Units, and the Lots including, but not limited to, all parking restrictions established by the Association from time to time within the Common Properties.

C. The right of the Association, in accordance with its Articles of Incorporation, Bylaws and this Declaration, with the vote or written assent of two-thirds (2/3) of the votes of Members in the Association, to borrow money for the purpose of improving the Common Properties and facilities and in connection therewith, to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of such mortgagee shall be subordinate to the use rights of the Owners hereunder.

D. The right of the Association to suspend the right to use the Common Properties (except means of ingress and egress) of an Owner for any period during which any Assessment against such Owner's Residential Unit remains unpaid and delinquent; and for a period not to exceed thirty (30) days for any single infraction of this Declaration or the rules and regulations of the Association, provided that any suspension of such voting rights or right to use the Common Properties shall be made only by the Board as provided in the Bylaws of the Association .

E. The right of the Association to dedicate, release, alienate, transfer or encumber all or any part of the Common Properties to or in favor of any public agency, authority or utility at any time and from time to time for such purposes and subject to such conditions as may be agreed to by the Members. So long as Declarant owns any portion of the Property, such dedication , release, alienation or transfer shall be effective without the approval, vote or written assent of the Members in the Association. At such time as Declarant owns no portion of the Property (or any part of future added real estate subjected to this Declaration so the term "Property" as used herein includes such added real estate), no such dedication, release, alienation or transfer shall be effective unless approved by the vote or written assent of two-thirds (2/3) of the votes of Members in the Association.

F. The right of the Declarant (and its agents, customers, representatives, servants, employees, licensees and invitees) to the non-exclusive use of the Common Properties, the facilities thereof, and an easement on, over, under and through the Common Property or any portion thereof without charge, for the purpose of construction, reconstruction, repair and maintenance of the Improvements including, but not limited to, utility lines and for sales, display , access, ingress, egress, Exhibit "A"nd other purposes.

G. The right of the Association (by action of the Board) to reconstruct, replace or refinish any Improvement or portion thereof upon the Common Properties, in accordance with the original design,

finish or standard or construction of such Improvement, or of the general Improvements within the Common Properties, as the case may be.

H. The right of the Association to replace destroyed trees or other vegetation and plant trees, shrubs and ground cover upon any portion of the Common Properties or Lots and to maintain same and any systems serving same including, but not limited to, irrigation and sprinkler systems.

I. The right of the Association to permit portions of the Common Properties , including, but not limited to, recreational facilities, to be used by one or more Owners and their guests and Renters for private parties and other similar functions, subject to the right of the Association to impose reasonable conditions and limitations on such use, including, but not limited to, the posting of a deposit to insure proper conduct and necessary clean-up and repairs .

J. The right of the Declarant to grant such other easements and rights over and upon the Common Properties as Declarant in its sole discretion, deems appropriate, including, without limitation, rights of the public to access by, through, across and upon the Common Properties (which easements and rights shall be similarly granted by the Association).

K. The rights set forth in Article 16 hereof .

L. The rights set forth in Article 17 hereof.

M. The right of Declarant and the Association, subject to the provisions of applicable law, to restrict access, ingress and egress to and from "PEACEFUL PALMS" by maintaining a controlled entry system at locations designated by Declarant or the Association from time to time and such other restrictions as the Declarant or the Association shall impose from time to time.

N. The right of Declarant and the Association to designate a central exclusive mail facility for the purpose of receiving and distributing any and all mail, addressed to certain Owners, Renters and occupants at "PEACEFUL PALMS".

O. Such other matters affecting title to the property within "PEACEFUL PALMS" and rights of governmental authorities.

P. An irrevocable power of attorney, coupled with an interest, of all Owners in favor of Declarant, for as long as Declarant owns any property, Residential Unit within "PEACEFUL PALMS", to exercise any of the foregoing or other rights or discharge any of the foregoing or other obligations which may be set forth herein for the benefit of Declarant or as an obligation of any Owner. This power of attorney shall be self-operative and shall not require any additional instrument to effect same. An Owner, by acceptance of a deed, thereby acknowledges and confirms (and, to the extent required, grants) the power of attorney set forth herein.

Q. Anything to the contrary herein notwithstanding , no action authorized in this Section shall be taken without prior written consent of the Declarant as long as the Declarant owns any property, Lot and/or Residential Unit within "PEACEFUL PALMS".

3.1 Delegation of Uses by Others. Any Owner may delegate by lease, in accordance herewith and with the By-Laws, such Owner's right of enjoyment of the Common Properties and Recreational Facilities to such Owner's permitted Renters (but once so delegated, any such Owner shall not have such rights until the applicable lease expires, unless such Owner owns other Residential Units where such rights were not

so delegated). All guests, invitees and licensees of Owners shall also be entitled to use the Common Properties, subject to applicable rules, regulations and limitations on such rights.

3.2 Parking Restrictions. Declarant shall have the right at any time and from time to time to designate areas within the Common Properties to be available for the parking of vehicles. Until such time as Declarant amends this Declaration for the purpose of specifically identifying the location of parking spaces for "PEACEFUL PALMS", Declarant shall have the right to locate and relocate all parking areas and parking spaces, in particular, in its absolute discretion. It is the intent of such right for the Declarant to have maximum flexibility in relocating Lots and Residential Units during the construction phase of the development.

A. All parking spaces shall be limited to designated portions of the Common Properties, and the maintenance and repair of these parking spaces shall be affected by the Association in the manner set forth hereinafter. Until finally designated by Declarant or Association with the consent of Declarant, shall temporarily designate parking areas and parking spaces for "PEACEFUL PALMS".

B. Any Owner of a Residential Unit shall have the right to the use of at least one (1) parking space, and no Owner shall be permitted to park more than two (2) vehicles on the Common Properties at the same time. Any attempted assignment or transfer to a third party of any parking privilege without the consent of the Association shall be void. The Association shall have the right to impose a reasonable fee for the privilege of any Owner to parking privileges in excess of one vehicle. All consideration, fees or other charges collected by Association for parking privileges shall be the sole property of and shall be retained by the Association.

C. Until all parking areas and parking spaces are finally determined by Declarant through the filing of an amendment to this Declaration for such purpose, all parking spaces may be used by Declarant or its designees for any purpose without interference from the Association. Anything to the contrary notwithstanding, any parking space assigned pursuant to Section 3.3A may be relocated by Declarant until PEACEFUL PALMS has been fully constructed, all Lots have been transferred by Declarant to Owners of Residential Units unaffiliated to Declarant, and the amendment to this Declaration designating final parking spaces has been recorded in the County.

D. The Association shall not adopt parking rules, fees or other restrictions which unreasonably restrict Renters of Residential Units from using such Common Properties or which discriminate against Renters of Residential Units over Owners of Residential Units.

3.3 Walkways. Declarant, and after conveyance of the Common Properties (including Limited Common Properties) to the Association, the Association, shall have the right to designate and construct walkways over the Common Properties.

A. Such walkways maybe designated by various means including signage and by means of the materials used to construct such walkways, e.g., boardwalk slates, concrete, asphalt, etc. After the designation by signage or construction of the walkways, Declarant shall have the continuing right from time to time (until conveyance of the Common Properties to the Association) to modify, alter, discontinue on a temporary or permanent basis, or relocate walkways. After the Declarant conveys the Common Properties to Association, the Association shall have the right to modify, alter, discontinue on a temporary or permanent basis, or relocate walkways.



B. All walkways located on the Common Properties shall be restricted to pedestrian use as a walking path for the limited purposes of light exercising , recreational strolling, and viewing of the ecological surroundings, sunrises and sunsets.

C. The following restrictions shall apply to the walkways:

- (1) No vehicles of any kind shall be permitted on walkways except for strollers for small children, wheel chairs and other manual or electrically powered apparatuses for persons disabled by physical handicaps or suffering from other disabling infirmities, and electrically powered carts owned or approved by the Association for the maintenance operation and control of "PEACEFUL PALMS";
- (2) No chairs, lounges, mats or other articles for sitting, lying, reclining or other non- walking activities shall be permitted on or within 50 feet of the walkways;
- (3) No person shall loiter or otherwise use any portion of the walkways for any extended period of time, it being the intent of these restrictions to limit gatherings in one location and to promote the use of walkways as a peaceful, designated path for the purpose of quietly meandering through "PEACEFUL PALMS" while enjoying the scenery and, in particular, sunrises and sunsets;
- (4) No commercial activities of any kind shall be permitted on the walkways; and
- (5) No entertainment of any kind shall be permitted on or within fifty (50) feet of the walkways.

D. The Association shall adopt such additional restrictions on the use of walkways as the Board shall deem in the best interest of the Owners in order to balance the protection of Owners, their guests and Renters, from unnecessary noise or view obstructions while occupying their Residential Units with the opportunity of all Owners, their guests and Renters, to enjoy the Common Properties .

3.4 No Waiver of Use. No Owner may release his Lot or Residential Unit from assessment s and liens hereunder by waiver of the use and enjoyment of the Common Properties.

3.5 Docks. Docks shall be considered Common Area. Declarant has the right to create rules and regulations, as may be amended from time to time for the use of the docks. Declarant has the authority to reserve up to three Docks for the exclusive use of Unit Owner's only (i.e Renter's may NOT use such docks) and the remaining Docks may be used by both Unit Owner's and Renters. Unless and until Declarant amends this Declaration to reserve such Docks for Unit Owner's only, all Docks may be used by both Unit Owner's and Renters.

A. Developer hereby reserves the right to add pilings and /or relocate existing pilings within or serving Docking Units owned by Developer or an Owner consenting to such addition or relocation.

B. Other than Association-preapproved pilings, no other improvements, structures, fixtures or other equipment shall be installed on, over or under a Dock.

C. In addition to other easements provisions in the Declaration affecting Docks, the following easement rights and grants shall apply to all Docks:

(1) INTENTIONALLY DELETED

(2) Docks and marina areas will be designated as Common Area and/or Limited Common Area and as such, easements are hereby reserved in favor of the Association under, upon, across, through and over all

portions of the Docks for the purpose, as deemed necessary by the Association, of preserving and maintaining the Land (including the seawall), the Docks and for carrying out its responsibilities under this Declaration;

(3) Declarant reserves unto itself, and its successors and assigns, perpetual non-exclusive easements of ingress and egress over and across the access existing from time to time in "PEACEFUL PALMS", and perpetual non-exclusive easements to enter upon, over, under or through all portions of the Property for the purpose of using, maintaining, repairing and replacing the Docks and all improvements thereto and the Common Properties which easements shall be for the use of Declarant, the Association (and its and their respective successors and assigns), Owners, and their respective lessees, employees, agents, invitees and licensees.

(4) The Association shall have the right, privilege and license to enter upon any Dock and any vessel moored within a Dock and upon and across the Limited Common Properties for the purpose of effecting any repairs to the Dock, and in particular the seawall and all support therefrom and to do such other maintenance and repairs as shall be reasonably necessary for the proper maintenance and repairs of the same Dock or of any other Dock abutting such Dock.

D. The Location of the Docks shall be determined at the discretion of the Declarant.

E. The following obligations and/or use restrictions shall apply to all Unit Owner's and/or Renter's using the Docks:

(1) Dock Users shall be solely responsible for any loss or damage to their private property used or stored at the Dock.

(2) Dock Users must comply with all governmental regulations.

(3) Each Dock shall be used only for the mooring of private leisure craft (jet skis, wave runners, or other personal watercrafts are allowed unless this Declaration is amended specifying that they are no longer authorized) in seaworthy condition and capable of operating under its own power. The Navigation laws of the United States, the State of Florida and all posted signs apply to all vessels in or approaching "PEACEFUL PALMS". No vessel shall be moored which is more than 31 feet in length or which has a draft of more than 3 feet.

(4) Each Dock User is solely responsible for the proper mooring of his/her vessel and is required to maintain mooring lines in good condition and sufficiently strong to secure the vessel at all times. Any special mooring rules or procedures issued by the Association shall be complied with at all times.

(5) During hurricanes and other high velocity wind threats, Dock Users are responsible for following all safety precautions that may be issued or recommended by the National Hurricane Center, National Weather Service, U.S. Coast Guard, the Association or any applicable agency. If Dock User's vessel sinks, such Dock User must remove the sunken vessel from the Dock immediately. If the Dock User does not remove the vessel within twenty-four (24) hours after the sinking, the Association may remove the vessel at the Unit Owner's expense whether such Dock User was the Unit Owners or a Renter of such Unit.

(6) Docking Units may not be used for commercial activities.

- (7) No open fires shall be permitted on any vessel, Dock, Limited Common Property or any Common Property, except in any area, if any, which may be approved for such use by the Association, and no charcoal, starting fluids or similarly used substances shall be kept in any portion of Docking Units.
- (8) No recreational swimming, diving or fishing shall be permitted within the waters of Docks.
- (9) No signs, advertisements or notices of any kind shall be displayed on any vessel, Dock, Limited Common Property or on any of the Common Property except as permitted by this Declaration .
- (10) Garbage, refuse, trash and rubbish shall be deposited in trash receptacles provided by the Association. Oil, spirit, and inflammables are not permitted in refuse containers. Illegal substances, fuel and sewage may not be discharged into waters over or adjacent to the Docks.
- (11) The handling, storage, transportation and disposal of hazardous or toxic materials is prohibited within Docks or Marina Area; provided, however, that this shall not prohibit the proper handling, storage and transportation of petroleum products used by an Owner in connection with the operation of the Owner's vessel. The Association shall have the right to immediately remove or cause the immediate removal of any hazardous or toxic material within Docks or marina area(s).
- (12) Each Unit Owner is responsible to ensure that any bilge water pumped into the water does not contain any petroleum or other hazardous or toxic materials. For purposes of this paragraph, hazardous and toxic materials shall be as defined by federal, Florida and common law.
- (13) No vessel may be repaired within Docking Units, except for minor maintenance (as determined by the Association) , which shall be performed between the hours of 9:00 a.m. and 5:00 p.m. and in a manner so as to minimize any disturbance to others.
- (14) The Association shall have the right to inspect any vessel to determine its seaworthiness, cleanliness and compliance with all applicable city, county, state and federal fire, safety and other regulations, as well as to determine whether the vessel fits within the vessel slip. The Association may remove any vessel from a Dock which fails to comply with any of these regulations or fails to fit within the vessel slip.
- (15) All vessels must be equipped with fully operational sanitary equipment as required by all applicable federal, state and local authorities. Holding tanks must be used for discharge of all heads aboard the vessel. Federal regulations prohibit discharging of vessel sanitary facilities at the Docks or surrounding waters . The dock master is authorized to board vessels to inspect holding tanks and to test their operation with dye if necessary. No person shall discharge anywhere at the Docks and/or marina area(s) water or dispose into garbage containers any oil, spirits, oily bilge water, storage batteries, or coolants. It is the responsibility of the Unit Owner of the vessel to be removed from the Dock and disposed of per state and federal regulations.
- (16) All vessels shall be moored so that the vessel is docked perpendicular to the seawall adjacent to the Docking Unit.
- (17) From time to time, the Association may require that all vessels be removed for maintenance, repairs and dredging.
- (18) No vessel moored in a Docking Unit shall be used for overnight accommodations, nor shall any vessel be otherwise used as a "live-aboard" vessel.

(19) Sewage pump-out facilities and fueling facilities shall not be installed and are prohibited in the boat basin.

F. The Board shall adopt from time to time such additional rules and regulations governing the use, operation, maintenance, management and control of the Docks as it deems appropriate, and it shall be the obligation of all Dock Users and Unit Owners to abide by such rules and regulations .

G. All persons are hereby notified that Declarant specifically reserves the right to construct, use, sell and/or lease additional Docks within "PEACEFUL PALMS". Such Docks will, if constructed, have the benefits of the easements set forth in this Declaration, and the rights and benefits more particularly describing in this Section and Section 3.6 of this Declaration. The additional Docks may be located along seawalls bounding PEACEFUL PALMS . Also, the additional Docks may be operated by the Association. Each Unit Owner, by virtue of the acceptance of the conveyance of his Unit in any manner, whether from Declarant or otherwise, shall be deemed to have approved and consented to the creation of additional Docks as aforesaid and to all governmental and quasi-governmental applications, petitions, agreements, permits, variances, rezoning, plan changes, plats and other approvals for same. Such power of attorney is coupled with Declarant's interest and is irrevocable.

H. No Docks shall be leased to a person or entity or in a manner which would cause the Docks to be treated as a "commercial marina" for governmental or regulatory purposes. Further, no Docks shall be leased to any person other than an Owner or tenant of a Residential Unit. Docks can only be rented by the Association as set forth in Section 9.13(E) as set forth herein.

3.6 Bay Bottom, Seawall and Portion of Walkways as Limited Common Properties Appurtenant to Docking Units . Approximately one (1) foot of bay bottom running parallel and contiguous to the vertical surface area of the seawall shall be Limited Common Property.

A. The pilings may be installed within the Limited Common Properties consisting of the bay bottom such that only the vessel properly kept in such Dock may be tied-up to those pilings. Developer hereby reserves the right to add pilings and/or relocate existing pilings within or serving Docks.

B. Water and/or electric infrastructure for utility hookups for the use and benefit of certain Docks may be installed within the Common Property or Limited Common Property for the exclusive use of such Docks adjacent thereto such that the vessel kept in such Dock may be connected to same, to the exclusion of all other users. The exact location of such utility facilities and appurtenant equipment has not yet been determined, and Declarant hereby reserves for itself, its successors and assigns, such perpetual easements as are necessary and required over, under, upon and/or through the Property for ingress, egress and access to and the installation, construction, operation, alteration, expansion, repair, replacement and maintenance of such utilities. This reservation further grants to the utility entities and the Declarant (so long as Declarant is constructing, repairing or relocating utilities and facilities appurtenant thereto in aid of construction of the property) the right of ingress, egress and access to and the right to construct, install, operate, alter, expand, replace and maintain such utility within any part of the Property.

C. Other than Association-preapproved pilings, utility infrastructure and utility connection equipment, no other improvements, structures, fixtures or other equipment shall be installed on, over or under such Limited Common Properties.

D. The Association shall have the right, privilege and license to enter upon any

Limited Common Property for a Docking Unit for the purpose of effecting any repairs to the Docking Unit or Limited Common Property.

E. The Board shall adopt from time to time rules and regulations governing the use, operation, maintenance, management and control of Docks and related Common Areas and Limited Common Properties and it shall be the obligation of all Dock Users and Unit Owners to abide by such rules and regulations.

3.7 Conveyance of the Common Properties. After all Lots and Residential Units have been conveyed to purchasers other than a Declarant Affiliate, or sooner at the option of the Declarant, the Declarant shall convey all of the Common Properties to the Association, and the Association shall accept said conveyance. The Common Properties shall be conveyed by Special Warranty Deed by Declarant. Such conveyance shall be free and clear of all liens and encumbrances, and subject only to:

- A. All taxes and assessments for the year of conveyance and subsequent years;
- B. Restrictions, conditions, easements , agreements , limitations, and reservations of record;
- C. Perpetual non-exclusive easements from and to any portion of the Property within "PEACEFUL PALMS" owned by the Declarant or its assignees at the time of the conveyance, which easements shall be for the use, benefit and enjoyment of Declarant, the Owners, its or their guests, invitees, licensees, successors and assigns;
- D. The Master Site Plan; and
- E. This Declaration, as the same may be amended from time to time.

3.8 Declarant's Right to Encumber . Until the Declarant conveys the Common Properties to the Association, Declarant shall have the right to mortgage the Common Properties for the purpose of financing the development and construction thereof, or for any other purpose, provided that (a) the lender recognizes the rights of the Owners hereunder, (b) the Common Properties shall be free of mortgages at the time of conveyance to the Association , and (c) the Association or any of the Members (other than Declarant, if it so chooses) shall not be personally liable for payment of the debt secured by such mortgage(s).

3.9 Common Properties for Benefit of Owners. The Declarant, and after conveyance to it, the Association, shall hold title to (and such rights in) the Common Properties for the benefit of those persons entitled to use same under the provisions of this Declaration (which shall be applicable from and after the date this Declaration is recorded whether or not the Common Properties are then owned by the Association)

3.10 Taxation of Common Properties. It is the intent of this Declaration that the Tax Assessor of the County shall include all ad valorem taxes for the Common Properties within the tax bill for the individual Residential Units. In the event the Association is taxed for the Common Properties, the Association shall pay such taxes and assess the Residential Units on a pro rata basis based upon the current ad valorem tax assessments as determined by the county tax assessor as part of the Common Expenses.

3.11 Construction Activities. Declarant, its agents, contractors, subcontractors, licensees and/or other designees may, from time to time, be engaged in construction, excavation, and other activities within or in proximity to "PEACEFUL PALMS". By acceptance of a deed or other conveyance or mortgage, leasehold, license or other interest, each such Owner, lender and user and their respective successors and assigns automatically acknowledge, stipulate and agree:

- A. None of the aforesaid activities shall be deemed a nuisance or offensive activity;

B. Not to enter upon or allow other persons under their direction or control to enter upon any portion of "PEACEFUL PALMS" where such activity is being conducted (even if not being conducted actively at the time of entry, such as at night or otherwise during non-working hours); and

C. Declarant, its agents, contractors, subcontractors, licensees and designees, shall not be liable for any direct or consequential losses, damages, injuries or deaths arising from or relating to the aforesaid activities.

3.12 Declarant's Reserved Rights. All of the foregoing property rights are subject to the rights reserved by the Declarant in this Declaration including those rights and exemptions in Articles XI and XII hereof.

3.13 Prohibition of Subdivision of Residential Units. Unless preapproved in recordable form by Declarant, no Residential Unit shall be subdivided or broken into smaller parts than as constructed by Declarant and described in the surveyor's certificate attached to the deed of conveyance from the Declarant to the transferee-Owner of such Residential Unit, nor shall any Residential Unit or portion thereof be added to or incorporated into any other Residential Unit .

#### **ARTICLE IV ASSOCIATION MEMBERSHIP AND VOTING RIGHTS**

4.1 Automatic Membership. Every Owner automatically shall be a member of the Association upon becoming the Owner of such Residential Unit and shall remain a member until his ownership ceases for any reason, at which time his membership shall cease automatically . Other than as an incident to a transfer of title to a Residential Unit, membership in the Association shall not be transferable and any attempted transfer shall be null and void. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Residential Unit shall be entitled, by virtue of such lien, mortgage or other encumbrance to membership in the Association, or to any of the rights or privileges of such membership.

4.2 Limitation Upon Liability of the Association. Notwithstanding its duty to maintain and repair the Common Properties, the Association shall not be liable to Owners for injury or damage, other than the cost of maintenance and repair caused by latent conditions of the Common Properties . Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements made by or on behalf of any Owner(s).

4.3 Declarant's Representation on the Board and Voting Rights. Declarant reserves unto itself the following rights notwithstanding any other provision in this Declaration, the Articles or the By- Laws:

A. Members other than the Declarant are entitled to elect at least a majority of the members of the board of directors of the Association when the earlier of the following events occurs:

(1) Three months after 90 percent of the Residential Units in all phases of the community that will ultimately be operated by the Association have been conveyed to members; or

(2) Such other percentage of the Residential Units has been conveyed to members, or such other date or event has occurred, as is set forth in the governing documents in order to comply with the requirements if any governmentally chartered entity with regard to the mortgage financing of parcels.

(3) For purposes of this section, the term "members other than the Declarant" shall not include builders, contractors, or others who purchase a parcel for the purpose of constructing improvements thereon for resale.

B. The Declarant is entitled to elect at least one member of the board of directors of the Association as long as Declarant holds for sale in the ordinary course of business at least 5 percent of the Residential

Units in all phases of the community. After the Declarant relinquishes control of the Association, the Declarant may exercise the right to vote any developer-owned voting interests in the same manner as any other member, except for purposes of reacquiring control of the Association or selecting the majority of the members of the board of directors.

4.4 Declarant's Right to Transfer Voting Rights. Declarant shall have the right to transfer all or any portion of its voting rights and/or any or all of its rights to appoint members of the Board and hereby reserves the right to transfer any or all of its voting rights and any or all of its rights to appoint members of the Board. The number of votes entitled to be cast, if any, and/or the number of members of the Board entitled to be appointed which are transferred by Declarant shall be set forth in the deed of conveyance or other instrument of conveyance by the Declarant in Declarant's sole and absolute discretion. Such transferee, upon becoming the record owner of any portion of the Property shall be entitled to exercise the privilege of voting and/or of appointing such number of members to the Board as designated as aforesaid in the deed or other instrument of conveyance. The voting rights so transferred by Declarant shall not be thereafter assigned or transferred by such transferee of Declarant without Declarant's written consent, which consent may be unconditionally withheld. Notwithstanding such limitation, One (1) votes for each Residential Unit transferred by such transferee shall be entitled to be voted pursuant to the terms of this Declaration. Anything to the contrary herein notwithstanding, (a) Declarant shall have the right to transfer its voting rights to a transferee who may or may not be an Owner, including, without limitation, any institutional lender, and (b) the restriction of transferring voting rights as stated herein shall not be imposed upon or affect any institutional lender acquiring a Lot or Residential Unit through foreclosure or deed-in-lieu of foreclosure.

4.5 Voting Rights. Subject to the Declarant's voting rights in Section 4.3 hereof, each Residential Unit shall be entitled to One (1) vote to be cast by the Owner. When more than one person holds an interest in a Residential Unit, the votes for such Residential Unit shall be cast by the Owner designated in a certificate filed with the Association and signed by all persons owning an interest. The votes for each Residential Unit are indivisible. Membership in the Association shall be appurtenant to and may not be separated from ownership of a Residential Unit. Transfer of ownership, either voluntarily or by operation of law, shall terminate membership in the Association, and said membership shall thereupon be vested in the transferee. Notwithstanding anything contained in this Declaration to the contrary, until such time as Declarant shall have conveyed all the Residential Units contained within PEACEFUL PALMS, exclusive of conveyances to entities related to or affiliated with Declarant or conveyances to other Declarants, or until Declarant sooner shall elect to transfer control to the non-Declarant members of the Association, Declarant shall have the sole and exclusive right to elect all officers and directors of the Association. During the period of Declarant's control, all Owners other than Declarant shall have a non-voting membership in the Association unless this provision is waived in writing by Declarant. In the event Declarant, in its absolute discretion, elects to turn over control of the Association to the Owners prior to the required turnover, Declarant shall retain the right to appoint one (1) Director to the Board for so long as Declarant or an entity related to Declarant owns a Residential Unit within PEACEFUL PALMS.

## **ARTICLE V DUTIES AND POWERS OF THE ASSOCIATION**

5.1 In General. The Association shall govern, operate, control, manage and maintain the Common Properties, pursuant to the terms and provisions of this Declaration, the Articles of Incorporation and the By-Laws. The Association shall pay all real property ad valorem taxes and all governmental liens assessed against the Common Properties, to the extent such taxes are not levied against Unit Owners. The Association shall further have the responsibility to hire personnel and to maintain, repair, and replace the Common Properties, including, without limitation, street lights and the community sign, at the expense of

the Association. The Association shall have all of the powers set forth in Chapter 617 and Chapter 720 of the Florida Statutes.

5.2 Additional Powers of Association. The Association, acting through the Board, shall also have the power and duty to:

- A. Maintain, protect, repair; replace and otherwise manage the Common Properties, including without limitation, all Improvements thereon in accordance with the provisions of this Declaration ;
- B. Preserve and enhance the natural beauty of PEACEFUL PALMS and the properties of the Members of this Association ;
- C. Promote the health, safety and social welfare of the Owners ;
- D. Own, operate, govern, administer and manage the Common Properties;
- E. Control the specifications , architecture and design appearance of PEACEFUL PALMS , including, but not limited to, elevation and location of, and landscaping around, all improvements of any type, including: walls, fences, swimming pools, docks, beaches, dune crossings, antennae , sewers, drains, disposal systems, or other structures constructed, placed or permitted to remain in PEACEFUL PALMS, as well as the alteration, improvement, addition or change thereto in order to preserve and maintain an integrated architectural design within PEACEFUL PALMS ;
- F. Ensure compliance with the Master Site Plan and to maintain all permits for the operation of “PEACEFUL PALMS”, of whatever nature, as required by governmental entities having jurisdiction over PEACEFUL PALMS ;
- G. Make and collect assessments, of any type, in accordance with the terms herein ;
- H. Control, operate and maintain the surface water management system and any waterways, lagoons, lakes retention areas, culverts, inlets and related appurtenances in PEACEFUL PALMS and to comply with the terms of the South Florida Water Management District, any applicable Wastewater Treatment Agreements and such other water management system(s) serving PEACEFUL PALMS and comply with any other permits, licenses and governmental approvals in connection with any common properties including waterways; subject to the right of the South Florida Water Management District to take enforcement action, including a civil action for an injunction and penalties against the Association to compel it to correct any outstanding problems with the surface water management facilities or in mitigation or conservation areas under the responsibility or control of the Association ;
- I. Provide for private security and/or telecommunications system(s) in “PEACEFUL PALMS”, and such other services the responsibility for which has been delegated to this Association by the terms hereof, and to provide capital improvements and equipment related thereto on the Common Properties ;
- J. Provide, purchase, acquire, replace, improve, maintain and/or repair such buildings, structures, landscaping, paving and equipment, both real and personal, related to the health, safety, and social welfare of the Members as the Board , in its discretion , determines to be necessary, appropriate, and/or convenient;
- K. Preserve scenic assets, natural features and natural and man-made recreational areas in “PEACEFUL PALMS”, to the maximum extent feasible;
- L. Oversee the general operation and maintenance of “PEACEFUL PALMS” in such a manner as to prevent substantial injury to the use and value of all or any part of “PEACEFUL PALMS”;



- M. Operate without profit for the sole and exclusive benefit of its Members;
- N. Assure that the provisions of the Declaration are duly enforced;
- O. Maintain all private streets within the Common Properties, including cleaning and periodic resurfacing, and to maintain, operate and replace any street lights now located or to be installed on the Common Properties;
- P. For the benefit of the Common Properties and the entire Project, (i) obtain all commonly metered water, sanitary sewage, gas and electric services and other such utilities or services, and (ii) provide for all refuse collection and cable or master television service (if any), as necessary. Nothing herein shall create any liability on the part of the Association for consequential or other damages resulting from the inability of the Association to so obtain, produce, circulate and provide any of the foregoing services for reasons beyond the Association's reasonable control, nor prohibit the Association from temporarily interrupting the foregoing services in order to effect necessary repairs, maintenance and replacement;
- Q. Grant easements, rights of way or strips of land, where necessary, for utilities , and sewer facilities and other services over the Common Properties to serve the Common Properties and other portions of "PEACEFUL PALMS";
- R. Maintain such policy or policies of liability, fire , flood, windstorm and other insurance with respect to the Common Properties and personal property located thereon or used in connection there with, if any, owned by the Association or the Declarant as provided herein in furthering the purposes and protecting the interests of the Association and Members and as directed by this Declaration and the By-laws of the Association;
- S. Employ or contract with a management company (which may be an affiliate of Declarant) to perform all or any part of the duties and responsibilities of the Association , and delegate, at the option of the Board, its powers to committees, officers and employees (which may also be employees of association(s) in PEACEFUL PALMS , in which case compensation shall be equitably apportioned); provided, however, so long as the Management Company is offering its rental program to the Owners, the Association shall not employ or contract with a management company or other entity for the purposing of providing rental services on behalf of Owners;
- T. Install and maintain security devices, detectors and communications facilities, and employ or contract for employment of security services, guards and watchmen for the Common Properties, if so desired by the Board;
- U. Operate and maintain (or contract for the operation and maintenance) of a cable TV or similar system for the benefit of Owners as specified herein, if so desired by the Board;
- V. To enter into agreements to manage the Associations and maintain the exterior landscaping and grounds of all Residential Units within "PEACEFUL PALMS";
- W. Take such other action which the Board shall deem advisable with respect to PEACEFUL PALMS as may be permitted hereunder or under law;
- X. To do and perform all such other acts and things permitted and to exercise all powers granted to a corporation not for profit under the laws of the State of Florida as those laws now exist or as they may hereafter provide; and

Y. To comply with all federal, state and local requirements concerning environmental protection including, but not limited to: the compliance with all water quality monitoring requirements and the maintenance of the storm water management system.

5.3 Association Expenses. The Association shall, through the Board, fix and determine from time to time the sum(s) necessary and adequate to provide for the expenses of the Association . The expenses of the Association shall be assessed against the Owners as provided in Article VI hereof.

5.4 Title to Common Properties; Conveyances to the Association. The Association shall be obligated to accept any and all deeds of conveyance delivered to it by Declarant which deed(s) convey title to all or any portion of the Common Properties.

5.5 Rules and Regulations . The Board may from time to time adopt or amend Rules and Regulations governing the details of the operation, use, maintenance, management and control of the Lots, Residential Units and the Common Properties.

5.6 Budget and Accounting. The Board shall adopt a budget for each fiscal year. Such budget shall contain estimates of all costs and expenses for the proper operation, management and maintenance of the Common Properties, including a reasonable allowance for contingencies and reserves, and shall take into account the projected income which is to be applied in reduction of the amounts required to be collected as an assessment each year. Common Expenses also shall include the cost of maintaining leaseholds, memberships and other possessory or use interests in lands and facilities to provide enjoyment, recreation or other use or benefit to Owners, all as acquired by lease or agreement in form and content satisfactory to the Board, including amounts which the Association may agree to pay to Declarant for services or availability of service, including management. Assessments shall be established based upon such budget. The Association shall comply with Chapter 617 concerning the adoption, notice and other requirements for homeowner associations.

#### 5.7 Reserves

A. Reserves for Capital Expenditures and Deferred Maintenance. Each annual budget shall include sums to be collected and maintained as reserves to be used for capital expenditures and deferred maintenance. These accounts shall include, but not be limited to, roof replacement, building painting, walkway replacement and pavement resurfacing. The amount to be reserved shall be computed by the Board by means of a formula based upon completed Residential Units transferred to non-affiliates of Declarant, and the estimated life and estimated replacement cost of each reserve item for such completed Residential Units. Such reserves may be waived or reduced for a fiscal year by the affirmative vote of at least one-half (1/2) of the Voting Interests of the Association at a duly called meeting of the Association. If such a meeting shall have been called and the necessary vote for waiver or reduction shall not have been attained or a quorum shall not have been obtained, the reserves as set forth in the budget shall go into effect.

B. General Operating Reserve. Each annual budget may include a sum to be collected and maintained as a general operating reserve, which sum may be used to meet deficiencies from time to time existing as a result of delinquent payment of assessments by Owners or as a result of emergencies or to pay other costs or expenses placing financial stress upon the Association. The amount to be allocated to such operating reserve and collected therefor shall not exceed ten percent (10%) of the current annual assessment levied against all of the Owners. Upon accrual in the operating reserve of a sum equal to thirty percent (30%) of the current annual assessments no further payments shall be collected, unless such operating reserve shall be reduced below the thirty percent (30%) level, in which event contributions to such operating reserve

shall be included in the annual assessment so as to restore the operating reserve to thirty percent (30%) of the current annual assessment.

5.8 Collections. All monies collected by the Association shall be treated as the separate property of the Association. Such monies may be applied by the Association to the payment of any expense of operating the Association, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the By-Laws. Monies for any assessment paid to the Association by any Owner may be commingled with monies paid to the Association by the other Owners. Although all funds and the Common Surplus shall be held for the benefit of the members of the Association, no member shall have the right to assign, hypothecate, pledge or in any manner transfer his interest therein, except as an appurtenance to his Residential Unit. When an Owner shall cease to be a member of the Association, the Association shall not be required to account to him for any share of the funds or assets of the Association, or for any sums which he may have paid to the Association.

5.9 Members' Rights. The Association shall be run by the Board and the Members shall only have such power as is specified herein or in the Articles or Bylaws. In the absence of a specific requirement of approval by Members, the Board may act on its own through its proper officers with or without a specific authorizing resolution.

5.10 Exterior Maintenance by the Association.

A. In addition to maintenance upon the Common Properties, and the maintenance of landscaping of individual Lots as provided in Section 5.11, the Association may provide exterior maintenance service to and upon any structure located on any Lot, Residential Unit, Docking Unit or any property in "PEACEFUL PALMS", provided such exterior maintenance is, in the opinion of the Board, required, including without limitation: paint ; repair, roof repair and replacement; installation of gutters, downspouts and exterior building surfaces; bulkheading; dredging; yard clean-up; and otherwise maintaining the Common Properties. In addition, the Association may provide maintenance to the landscaping, sprinklers, trees, shrubs, grass, pools, walks, private drives, shorelines and streets, Owner's irrigation systems, and may provide maintenance to other exterior improvements. To the extent such maintenance is provided in a manner satisfactory to the Association by an Owner, or by the Declarant for any part of "PEACEFUL PALMS", such maintenance shall not be provided for or duplicated by the Association.

B. The provision of any exterior maintenance services by the Association to any property in "PEACEFUL PALMS" shall not be deemed to constitute and does not constitute any acceptance of the ongoing responsibility to maintain such properties, at such time as the Association renders exterior maintenance services, it shall do so at the sole expense of the responsible Owner(s) for which services such Owner shall be assessed in accordance with this Declaration as a Special Assessment.

C. The cost of such maintenance may be assessed as a Special Assessment against an Owner, or against the Residential Units, or other property in "PEACEFUL PALMS" which, in the opinion of the Association, benefit from same. This exterior maintenance assessment shall be separate, apart and in addition to any annual or other special maintenance assessments. Any such exterior maintenance assessment shall be a lien on the Residential Unit, and/or property within "PEACEFUL PALMS" and which is the subject of the maintenance assessment, shall be a personal obligation of the Owner and shall become due and payable in all respects, together with interest, charges, penalties and late fees as provided by the Board. The provisions of Article VI of this Declaration shall apply to any such Special Assessment for exterior maintenance.

5.11 Lawn and Landscaping Maintenance by the Association. The Association shall provide as a Common Expense the maintenance of all lawns and landscaping for the Common Properties and Lots.

5.12 Access at Reasonable Hours. Except in the case of emergency when no notice is required, for the purpose of performing the maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right after five days' written notice to the Owner or the Declarant, to enter upon any Residential Unit, or the exterior of any Residential Unit and/or property owned by the Declarant which is the subject of the maintenance assessment at reasonable hours on any day except on Sunday. Said notice shall be delivered either in person or mailed to the Owner or to the Declarant, by certified mail, return receipt requested. The notice shall be deemed given when mailed.

5.13 Access to Residential Units by Management Company. Provided Management Company has filed with the Association a current Rental Agreement for a Residential Unit Management Company, its agents and employees, shall be permitted access to such Residential Units without prior notice for the purpose of performing the maintenance and services authorized by the Rental Agreement.

5.14 Easement for Maintenance. The Association is hereby granted a non-exclusive easement to enter upon any Lot, the exterior of any Residential Unit and any property in PEACEFUL PALMS owned by the Declarant in order to provide exterior maintenance service to and upon any structure located on or upon any of such enumerated properties in accordance with the terms of this Article, including, without limitation, the right to erect and maintain thereon scaffolding or other equipment required for such maintenance service.

5.15 Fines. Notwithstanding the availability of other remedies set forth elsewhere in this Declaration, the Association shall also have the power to assess reasonable fines to enforce any of the provisions of this Declaration, the By-Laws, or rules and regulations promulgated in connection therewith, provided only that appropriate notice and right to appear be granted to any subject to such fine s.

5.16 Perpetual Existence. The Association shall exist in perpetuity; however, if the Association is dissolved, the property consisting of the surface water management system will be conveyed to an appropriate agency of local government. If this is not accepted, then the surface water management system will be dedicated to a similar non-profit corporation.

## **ARTICLE VI ASSESSMENTS**

6.1 Purpose. Assessments levied by the Association shall be used to promote the common health, safety, benefit, recreation, welfare and aesthetics of the Owners and to maintain, repair and replace the Common Properties and such portions of the Residential Units as delegated to the Association in this Declaration.

6.2 Assessments. The Board shall have the power to fix, determine and collect from all Owners, as provided in the By-Laws, the sums necessary and adequate to provide for the Common Expenses and such other expenses as are specifically provided for in this Declaration and the By-Laws. The Board shall furnish prompt notice to Owners of all assessments payable .

A. Allocation. Unless otherwise stipulated , all assessments pertaining to the Common Properties in general shall be levied on an equal, pro rata basis among all Owners of Residential Units, and all assessments pertaining to the Common Properties associated primarily with the Docking Units shall be levied on an equal, pro rata basis among all Owners of Docking Units. Should the Association be the owner of any Residential Unit(s), the assessment which otherwise would be due and payable to the Association on such Residential Unit(s) shall be levied ratably among all of the Owners excluding the Association .

B. Special Assessments. Should the assessments prove to be insufficient to pay the costs of operation of the Association, or should any emergency arise, including, without limitation, the following: (a) reconstruction of portions of the Common Properties; and (b) unexpected repairs or replacements, the Board shall have the authority to levy such additional assessment(s) as it may deem necessary, subject to obtaining the Association Membership's approval of such Special Assessment by a majority of those Members voting at a duly called meeting of the Association at which a quorum is present. The specific purpose(s) of any Special Assessment shall be set forth in a written notice of such assessment sent or delivered to each Owner. The funds collected pursuant to a Special Assessment shall be used only for the specific purpose(s) set forth in such notice or returned to the Owners; provided, however, that upon completion of such specific purpose(s), any excess funds shall be considered Common Surplus. Anything herein to the contrary notwithstanding, so long as Declarant owns at least two (2) Residential Units in "PEACEFUL PALMS", no Special Assessment shall be authorized without Declarant's prior written approval.

C. Certificate of Unpaid Assessments. Within fifteen (15) days after request by an Owner or Residential Unit mortgagee, the Association shall provide a certificate stating all assessments and other monies owed to the Association by the Owner with respect to the Residential Unit. Any person other than the Owner who relies upon such certificate shall be protected thereby.

D. Payment: Default. The assessments levied against each Owner shall be payable at the main office of the Association in such installments and at such time as may be determined by the Board as provided in the By-Laws. The payment of any such assessment shall be in default if it is not paid to the Association on or before its due date.

6.3 Annual Assessments: Budget. The Board shall fix, determine and collect the sums necessary and adequate to pay for the general expenses of the Association. The annual assessment shall be determined by the Board based upon an estimated annual budget which shall be prepared at least forty-five (45) days prior to the commencement of the fiscal year. The Association's fiscal year shall be the calendar year beginning with the calendar year in which this Declaration is recorded in the Public Records of the County. Assessments shall be payable monthly in advance or at such other time as determined by the Board at the main office of the Association. The payment of any assessment shall be in default if it is not paid to the Association on or before its due date.

6.4 Special Individual Assessments. In addition to the annual assessments, and Special Assessments, the Association may levy special individual assessments to pay the costs of such items as are determined necessary or appropriate by the Board. Special individual assessments may be against certain Lots, Residential Units, Docking Units and Owners and in differing amounts as necessary or appropriate.

6.5 Subordination of Liens to Mortgages. Assessment liens shall be superior to all other liens, except tax liens and first mortgage liens in favor of Institutional Lenders or Declarant. The sale or transfer of a Lot, pursuant to a decree of foreclosure or where the Institutional Lender takes a deed in lieu of foreclosure, shall extinguish the lien of such assessments as to payments which became due and payable prior to the date of such decree or deed in lieu of foreclosure only pursuant to superior mortgages as provided above. Such sale or transfer shall not relieve such Lot or Residential Unit from liability for any assessments thereafter becoming due, nor from the lien of any subsequent assessment.

6.6 Certificates. The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing by an officer of the Association, setting forth whether assessments have been paid. Such certificate shall be conclusive evidence as to any assessment therein stated to having been paid.

6.7 Liability of Declarant. Anything to the contrary herein notwithstanding , Declarant shall not be liable for any Assessments imposed upon Residential Units or Lots or Docking Units for which it is the Owner as long as the Declarant pays all deficits in operation of the Association above the Assessments and capital contributions and other sums collectible from other Owners or otherwise. Declarant may at any time and from time to time be relieved of all obligations to fund deficits by electing, for any Assessment period or periods, to pay Assessments imposed on Residential Units or Lots or Docking Units for which it is the Owner.

6.8 Initial Assessment for New Members. Declarant shall collect from every Owner at the time of closing and every such Owner, other than Declarant, its successors or assigns, shall pay to the Association an amount equal to two months of monthly assessment charges to be used as working capital for the Association. This obligation to pay an initial capital assessment shall apply to transferees from the Declarant and all subsequent transferees from time to time.

## **ARTICLE VII EFFECT OF NON-PAYMENT OF ASSESSMENTS:**

### **REMEDIES OF ASSOCIATION**

7.1 Application of Proceeds in Event of Default. In the event that a Residential Unit is to be sold, leased or mortgaged at a time when payment of any assessment by the Owner shall be in default (whether or not a notice of lien has been recorded by the Association), then the proceeds of such purchase or mortgage shall be applied by the purchaser or mortgagee first to payments of any then delinquent assessment or installments thereof due to the Association before the payment to the Owner in default.

7.2 Liens: Enforcement.

A. The assessments shall be levied against each Owner(s) who is bound to pay them. Common Expenses and assessments shall constitute a lien against each Residential Unit and shall have the priority afforded by law. Actions to enforce such claims shall be in conformity with the law. Each Owner also shall be liable personally to the Association for the payment of all such assessments and for interest on any delinquent payment and for all costs of collecting such payment and interest thereon, including reasonable attorneys' fees. No Owner may exempt himself from liability for any assessment levied against him by waiver of the use or enjoyment of any of the Common Properties, or by abandonment of the Residential Unit or in any other way. Assessments which are unpaid after the due date shall bear interest at the maximum rate of interest chargeable to an individual as permitted by the laws of the State of Florida. Once interest has accrued, any subsequent payment shall be applied first to payment of interest and collection costs and then to the payment of the assessment first due.

B. Each such lien shall secure: (i) all advances for taxes, payments on account or superior mortgages, liens or encumbrances and any other payments which the Association may pay in order to preserve and protect its lien; and (ii) all costs and expenses, including reasonable attorneys' fees, which may be incurred by the Association in enforcing the lien upon the Residential Unit.

C. Each lien herein granted to the Association shall be effective upon recording a notice of lien in the Public Records of the County. A notice of lien shall state the description of the Residential Unit encumbered thereby, the name of the record owner, the amount due and the date when due. No lien shall continue for a period longer than one (1) year after the claim of lien shall have been recorded, unless within that time an action to enforce the lien shall be commenced in a court of competent jurisdiction . The claim of lien shall secure all unpaid assessments, interest , costs and attorneys' fees which are due and which may accrue

subsequent to the recording of the claim of lien and prior to entry of a final judgment of foreclosure. Such claim of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such lien, the same shall be satisfied of record.

D. The Association, acting through the Board, shall have the right to assign to Declarant or to any Owner(s) or third party its lien rights for the recovery of any unpaid assessments.

E. A lien granted to the Association may be foreclosed. No foreclosure action may be filed until at least thirty (30) days after the Association gives written notice to the Owner of its intention to foreclose its lien to collect the unpaid assessments. If this notice is not given at least thirty (30) days before the foreclosure action is filed and if the unpaid assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the Association shall not recover attorneys' fees or costs. The notice must be delivered personally to the Owner or mailed and delivered by registered or certified mail, return receipt requested. If, after diligent search and inquiry, the Association cannot find the Owner or a mailing address at which the Owner will receive the notice, the notice shall be given as required by law.

F. If the Owner remains in possession of the Residential Unit and/or the Docking Unit and the claim of lien is foreclosed, the court, in its discretion, may require the Owner to pay taxes and prior encumbrances and interest thereon, all as provided above. Such notice of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such lien, the same shall be satisfied of record.

G. Institution of a suit at law to collect payment of any delinquent assessment shall not prevent the Association from thereafter seeking enforcement of the collection by foreclosure of any sums then owing to it. Proceeding by foreclosure to affect such collection shall not preclude the institution of a suit at law to collect any sum then owing to it. An Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all assessments coming due while he is the Owner and shall be subject to all of the provisions of this Declaration, the By-Laws, the Rules and Regulations and applicable law. In a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor for his share of the Common Expenses up to the time of the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by grantee. Any person who acquires an interest in a Residential Unit (except through a foreclosure of a recorded first mortgage or acceptance of a deed in lieu thereof) shall not be entitled to occupancy of the Residential Unit or enjoyment of the Common Properties until such time as all unpaid assessments and other charges due and owing by the former owner have been paid.

H. When an Institutional Lender of record, or other purchaser of a Residential Unit shall obtain title to a Residential Unit by a purchase at a public sale resulting from the Institutional Lender's foreclosure judgement in a foreclosure suit in which the Association shall have been properly named as a defendant junior lienholder, or as a result of a deed given in lieu of foreclosure, such acquirer of title, its successors and assigns shall not be liable for the share of Common Expenses or assessments attributable to the Residential Unit or chargeable to the former Owner of the Residential Unit which became due prior to such acquisition of title unless the share shall be secured by a claim of lien for assessments recorded prior to the recording of the foreclosed mortgage. The unpaid share of Common Expenses or assessments shall be Common Expenses collectible from all of the Owners, including such acquirer, its successors and assigns. An Institutional Lender acquiring title to a Residential Unit by foreclosure or deed in lieu of foreclosure shall not, during the period of its ownership of the Residential Unit, whether or not the Residential Unit is

unoccupied, be excused from the payment of some or all of the Common Expenses coming due during the period of such ownership.

7.3 Liens : Personal Obligations. Owner hereby gives and grants unto the Association a lien against all Lots and Residential Units for their respective share(s) of the assessments due the Association. The lien herein granted shall commence upon the recording of this Declaration in the Public Records of the County. Owner, for each Lot and Residential Unit and Docking Unit owned by it and each other Owner, by acceptance of a deed thereto, shall be deemed to covenant and agree to pay to the Association:

(a) annual assessments; (b) special assessments; and (c) special individual assessments. Each such assessment , together with interest, late charges, costs, and reasonable attorneys' fees, shall be a charge on the applicable Lot and shall be a continuing lien thereon against which each such assessment is made. Each such assessment, together with interest, late charges, costs and reasonable attorneys' fees shall also be the personal obligation of the person(s) owning such Lot and Residential Units at the time when the assessment came due.

7.4 Delinquencies: Enforcement. Unpaid assessments shall be a continuing lien on the applicable Lot and Residential Units which shall bind such Lot and Residential Units in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain a personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them. Assessments shall bear interest from the due date until paid at the maximum rate allowed by law for an individual. A late charge shall be due in the amount of twenty-five dollars (\$25.00) per monthly assessment or portion thereof past due or fifty percent (50%) of the monthly assessment past due, whichever is greater, and the Association may bring an action at law against the Owner personally obligated to pay the same or an action to foreclose the lien against the Lot, and there shall be added to the amount of such assessment reasonable attorneys' fees and costs incurred in collecting such assessment, and in the event that judgment is obtained, such judgment shall include interest on the assessment and late charges as above provided and reasonable attorneys' fees, together with the cost of the action, including attorneys' fees and costs on appeal. Liens may be foreclosed in the same manner as mortgages are foreclosed .

#### **ARTICLE VIII ARCHITECTURAL AND LANDSCAPE CONTROL**

8.1 Members of Committee. The Architectural Control Committee, sometimes referred to in this Declaration as the "Committee," shall consist of three (3) members. The initial members of the Committee shall consist of persons designated by Declarant. Each of said persons shall hold office until all Residential Units planned for "PEACEFUL PALMS" have been constructed , created and conveyed , or sooner at the option of Declarant. Thereafter, each new member of the Committee shall be appointed by the Board and shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. Members of the Committee may be removed at any time without cause. The Board shall have the right to appoint and remove all members of the Committee.

8.2 Review of Proposed Construction.

A. Subject to Articles XI and XII of this Declaration and any other exemption granted to Declarant pursuant to the terms of this Declaration, no building, fence, wall or other structure or Improvement (including landscaping, trees, shrubs, vegetation and ground cover) shall be commenced, removed, altered, painted, erected or maintained in PEACEFUL PALMS, nor shall any addition, change or alteration visible from the exterior of Residential Units be made, nor shall any awning, canopy or shutter be attached to or placed upon outside walls or roofs of buildings or other improvements, until the plans and specifications



showing the nature, kind, shape, height, materials and location of the same shall have been submitted to, and approved in writing by, the Committee (after first having been approved by any applicable association or architectural control committee thereof.) The Committee shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations, additions or use contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of PEACEFUL PALMS as a whole, and that the appearance of the surrounding area of "PEACEFUL PALMS" as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures and is otherwise desirable. If the proposed construction, alteration or additions are to common property of an association, said approval shall also be subject to the prior approval of said association. The Committee may condition its approval of proposals and plans and specifications as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The Committee may also issue rules or guidelines setting forth procedures for the submission of plans for approval. The Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the Committee of any required plans and specifications, the Committee may postpone review of any plans submitted for approval. The Committee shall have thirty (30) days after delivery of all required materials to approve or reject any such plans, and if not approved within such 30-day period, said plans shall be deemed approved. The Committee herein shall be the ultimate deciding body and its decisions shall take precedence over all others.

B. The Committee shall have the right to promulgate such further rules and regulations as it deems necessary in order to preserve the values and appearance of "PEACEFUL PALMS" and hereafter, to modify, alter, amend, rescind and augment any of same (collectively "Design Rules") provided that the Design Rules so promulgated shall not be in conflict with the provisions of the Declaration. Such Design Rules shall not become effective until approved by the Declarant in writing so long as the Declarant owns any portion of "PEACEFUL PALMS" and thereafter by the Board. The Committee may adopt a schedule of reasonable fees for the processing of applications which fees shall be subject to the approval of the Board.

C. The Committee shall also have the right to determine from time to time the use that each Residential Unit or Property (or portion thereof) may be subject to, and may prohibit or restrict a particular use notwithstanding that such use may be permitted by any applicable zoning law, ordinance, rule or regulation.

D. All changes and alterations shall be subject independently to all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees.

E. The Committee shall not adopt rules or regulations which prohibit any Owner from participating in a rental program with the Management Company or any successor management company.

8.3 Meeting of the Committee. The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time, by resolution unanimously adopted in writing, designate a Committee representative (who may, but need not be one of its members) to take any action or perform any duties for and on behalf of the Committee, except the granting of variances pursuant to Section 8 hereof. In the absence of such designation, the vote of any two (2) members of the Committee shall constitute an act of the Committee.

8.4 No Waiver of Future Approvals. The approval of the Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring

the approval and consent of the 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.

8.5 Compensation of Members. The members of the Committee shall not receive compensation for serving as such, but may be reimbursed for expenses incurred by them in the performance of their duties hereunder.

8.6 Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

A. Upon the completion of any work for which approved plans are required under this Article VIII, the applicant for such approval (the "Applicant") shall give written notice of completion to the Committee.

B. Within ten (10) days thereafter, the Committee or its duly authorized representative may inspect such Improvement. If the Committee finds that such work was not effected in substantial compliance with the approved plans, it shall notify the Applicant in writing of such noncompliance within such ten (10) days period, specifying the particulars of noncompliance, and shall require the Applicant to remedy the same.

C. If a noncompliance exists, the Applicant shall remedy or remove same within a period of not more than thirty (30) days of such notification. If, upon the expiration of thirty (30) days from the date of such notification, the Applicant shall have failed to remedy such noncompliance, the Committee shall notify the Board in writing of such failure. The Board, at its option, may either remove the noncomplying Improvement or remedy the noncompliance, and the Applicant shall reimburse the Association, upon demand, for all expenses incurred in connection therewith, plus a 25% administrative charge. If such expenses are not promptly repaid by the Applicant to the Association, the Board shall levy a Special Assessment against such Applicant for reimbursement plus the 25% administrative charge. The entry upon the property by the Association or its agents for the purpose of affecting the terms of this provision is expressly permitted and shall not constitute a trespass.

D. If for any reason the Committee fails to notify the Applicant of any noncompliance within thirty (30) days after receipt of said written notice of completion from the Applicant, the Improvement shall be deemed to have been made in accordance with said approved plans.

8.7 Non-Liability of Committee Members. Neither the Committee, nor any member thereof, nor its duly authorized Committee representative, shall be liable to the Association, any association, or to any Owner or any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties hereunder, unless due to the willful misconduct or bad faith of a member and then only that member shall have any liability. The Committee shall review and approve or disapprove all plans submitted to it for any proposed Improvement, alteration or addition solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to PEACEFUL PALMS. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

8.8 Variance. The Committee may authorize variances from compliance with any of the architectural provisions of this Declaration or any supplemental declaration, when circumstances such as topography,

natural obstructions, hardship, aesthetic or environmental considerations require. Such variance must be evidenced in writing which must be signed by at least two (2) members of the Committee. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration or any supplemental declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration or of any supplemental declaration for any purpose except as to the particular property and particular improvement for which the variance was granted.

8.9 Exterior Appearance and Design. The Owners of any building or improvement which has suffered damage may apply for approval to the Architectural Committee for reconstruction, rebuilding or repair of the Improvements therein. Application for such approval shall be made in writing, together with full and complete plans and specifications, working drawings and elevations showing the proposed reconstruction and the end result thereof. The Architectural Committee shall grant such approval only if upon completion of the work the exterior appearance and design will be substantially like that which existed prior to the date of the casualty. Failure of the Architectural Committee to act within thirty (30) days after receipt of such a request in writing together with the drawings and plot plans showing the full and complete nature of the proposed changes shall constitute approval thereof. If the obligation for repair falls upon the Association, Architectural Committee approval will not be required prior to the commencement of such work.

#### 8.10 INTENTIONALLY DELETED

8.11 Time Limitation - Destruction. The Owner or Owners of any damaged Building, the Association and the Architectural Committee shall be obligated to proceed with all due diligence hereunder, and the responsible party shall commence reconstruction within three (3) months after the damage occurs and complete reconstruction within one (1) year after damage occurs, unless prevented by causes beyond their reasonable control.

8.12 Improvements. All Improvements shall comply with all applicable minimum standards established by the Committee and zoning laws. No Improvement shall be constructed, removed, changed or installed without the Committee's prior written approval (except as hereinafter provided as to Declarant). The Committee shall control not only the initial structure and improvements, landscaping, walls and fences to be constructed, but also any additions, changes or modifications thereof on any Residential Unit, except that all structures constructed by Declarant as well as landscaping, walls and fences installed or constructed by Declarant shall be deemed approved by the Committee. Anything herein to the contrary notwithstanding, any Owner may make alterations, changes and modifications within the interior of his Residential Unit without obtaining the Committee's consent.

8.13 Maintenance of Improvements. All Improvements shall be kept in a clean, neat and attractive condition consistent with the general appearance of "PEACEFUL PALMS" and in conformity with the terms and conditions of this Declaration and all rules and regulations hereinafter adopted by the Association.

8.13 Landscaping. Maintenance of lawns and landscaping of each Lot is the responsibility of the Association, and the cost of such maintenance is a Common Expense for all Owners pursuant to Section 5.11. In order to minimize such Common Expense for the benefit of all Owners, no Owner shall alter the landscaping of such Owner's Lot by removing, adding or otherwise altering the type, location or other condition of plants, shrubs, trees, grass, rocks or other landscaping materials as initially planted or placed by Declarant at the time Declarant transferred the Lot to the Owner.

## **ARTICLE IX PARTICULAR USE RESTRICTIONS, RULES AND REGULATIONS**

9.1 Applicability. The provisions of this Article shall apply to "PEACEFUL PALMS", but shall not apply to Declarant any of its affiliates, contractors or subcontractors. If requested by any interested party, Declarant shall give a written statement as to whether any particular person or entity shall be exempt from the provisions of this Article and to which Land or Residential Unit and for what period of time such exemption shall exist.

9.2 Nuisances. No noxious, offensive or unlawful activity shall be carried on within "PEACEFUL PALMS" nor shall anything be done in "PEACEFUL PALMS" which may be or may become an annoyance or nuisance to other Owners.

9.3 Signs. No sign of any kind shall be permitted on the Common Properties, any Residential Unit or any Lot; nor shall any sign be permitted on or visible from any, including, without limitation, any signs indicating that a Lot or Residential Unit is for sale or for lease. Notwithstanding such prohibition, parking, restricted parking & speed and directional signs shall be permitted at the discretion of the Association and with the consent of the Declarant. All permitted signs shall, in all respects, be in accordance with rules and regulations promulgated by the Association. Notwithstanding anything herein to the contrary, Declarant shall be entitled to place signs of such size and design as Declarant shall determine upon any Lot or Residential Unit to advertise for sale or other purposes.

9.4 Parking and Vehicular Restrictions. Parking in "PEACEFUL PALMS" shall be restricted to the parking areas therein designated for such purpose. Except for temporary purposes in order to service Residential Units or the Common Properties, no person shall park, store or keep on any portion of "PEACEFUL PALMS" any large commercial-type vehicle (for example, dump truck, cement mixer truck, oil or gas truck, delivery truck), nor may any person keep any other vehicle on the Common Properties which is deemed to be a nuisance by the Board. No person shall conduct repairs (except in an emergency) or restorations of any motor vehicle. All vehicles shall be subject to height, width and length restrictions and other rules and regulations now or hereafter adopted by the Association.

9.5 Animal Restriction. No livestock, reptiles or poultry of any kind shall be raised, bred or kept on "PEACEFUL PALMS". Pets shall be prohibited from all portions of the Common Properties except where designated by the Association. All pets must be controlled by Owners in strict accordance with rules and regulations to be enacted from time to time .

9.6 Garbage & Refuse. No portion of PEACEFUL PALMS shall be used or maintained as a dumping ground for rubbish. Trash and garbage shall not be kept except in sanitary containers or as required by the Association or the applicable County ordinances . All equipment for the storage or disposal of such material shall be kept in clean and sanitary condition. No individual sewage disposal system shall be permitted in "PEACEFUL PALMS". All trash must be placed in receptacles approved of by the Association.

9.7 Temporary, Play and Auxiliary Structures. No structure of a temporary character, trailer, basement, tent, shack, shed, barn or other outbuilding shall be built, installed or used in "PEACEFUL PALMS" at any time. No platform, doghouse , playhouse or similar structure shall be constructed in any part of "PEACEFUL PALMS" without the Committee's prior written approval. No outdoor clotheslines shall be permitted. No building, fence, screen enclosure, wall or other structure shall be erected or maintained, nor shall any exterior addition, change or alteration thereof be made, unless consistent with the general aesthetics of "PEACEFUL PALMS" as described in the Master Site Plan and unless and until plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted and approved in writing by the Committee .

9.8 Other Facilities. Nothing shall be altered or constructed in or removed from "PEACEFUL PALMS" except upon the written consent of the Committee.

9.9 Outside Installation. To the extent permitted by law and as otherwise approved by the Board, no exterior radio antenna, television antenna or other antenna of any shall type shall be erected or maintained in the buildings or elsewhere on PEACEFUL PALMS , provided that a master antenna or antennae, or cable television antenna or antennae, may be provided for the use of Owners, and Declarant may grant and hereby reserves easement for such purposes. The erection of such antenna shall be subject to restriction of record as amended from time to time.

9.10 Insurance Rates. Nothing shall be done or kept in the Common Properties which will increase the rate of insurance on any properties insured by the Association without the approval of the Board, nor shall anything be done or kept in the Buildings, Residential Units, or on the Common Properties which would result in the cancellation of insurance on any property insured by the Association or which would be in violation of any law. In the event that an Owner does anything to increase the rate of insurance, said Owner shall be responsible for payment of the increased amount as a Special Assessment in accordance with the terms hereof.

9.11 Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted in or on "PEACEFUL PALMS", nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted. No derrick or other structure designed for use in boring for water, oil, natural gas or minerals shall be erected, maintained or permitted on or around "PEACEFUL PALMS".

9.12 Selling of Residential Units. No Owner other than the Declarant and other parties identified in Section 11.5.E., may sell his Residential Unit except by complying with the right of first refusal reserved by Declarant as set forth in Section 11.5 hereof.

9.13 Leasing. Residential Units may be leased pursuant to the provisions of this Declaration, the Master Site Plan and the codes and ordinances of the Village of Islamorada. In the event the Village of Islamorada permits vacation or transient rentals at "PEACEFUL PALMS", the Developer and/or the Association reserves the authority to contract with a Management Company for the purpose of providing reservation, check-in / check-out, housekeeping, maintenance and other services, and making such services available to Unit Owners so desiring them . The Board shall establish such rules and regulations in regard to the leasing of Residential Units by Owners as it determines reasonably necessary. A Docking Unit shall be used only for the mooring of approved vessels. All rules and regulations adopted by the Association shall be applied and enforced without discrimination on the basis of race, religion, color, creed or sexual preference. All lessees shall be subject to this Declaration, the Articles and By-Laws of the Association and all supplements and amendments thereto. Notwithstanding the Association's right to promulgate such rules and regulations, so long as the Management Company is offering its services to Owners:

A. Vacation rentals are permitted with a minimum occupancy period of seven (7) days.

B. No portion of the Property other than that designated and used by a Management Company, if any, will be used as a leasing or rental office, a service desk, including, without limitation, a hotel "front desk", in connection with the leasing or management of Units.

C. Each Unit that rents pursuant to this Section shall comply with the following at all times:

(1) No more than one motorized watercraft, including a jet ski or wave runner, shall be allowed at each vacation rental unit. The watercraft may be moored at either an existing on-site docking facility or stored on a trailer in an approved parking space.

- (2) Vehicles, watercraft and trailers shall not be placed on the street or in yards. All vehicles, watercraft and boat trailers must be parked or stored off-street in parking spaces specifically designated and approved in the special vacation rental permit. One vehicle parking space shall be required per bedroom or efficiency unit and one boat trailer space per vacation rental unit.
- (3) No boat docked at a vacation rental property shall be chartered to a person other than registered guests of the vacation rental unit or used for live-aboards, sleeping or overnight accommodations. In addition, recreation vehicles shall not be used for sleeping or overnight accommodations at the vacation rental unit.
- (4) Occupants shall be prohibited from making excessive or boisterous noise in or about any residential dwelling unit at all times. Noise, that is audible beyond the boundaries of the residential dwelling unit, shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m. weekdays and 11:00 p.m. and 9:00 a.m. on weekends.
- (5) All trash and debris on the vacation rental property must be kept in covered trash containers. Each vacation rental unit must be equipped with at least four covered trash containers for such purpose. Owners must post, and occupants must comply with, all trash and recycling schedules and requirements applicable to the vacation rental unit. Trash containers must not be placed by the street for pick-up until 6:00 p.m. the night before pick-up and must be removed from the area by the street by 6:00 p.m. the next day.
- (6) A tenant's agreement to the forgoing rules and regulations must be made a part of each and every lease under F.S. § 509.01 for any vacation rental unit subject to the provisions of this section. These vacation rental regulations governing tenant conduct and use of the vacation rental unit shall be prominently posted within each dwelling unit subject to the provisions of this section along with the warning that violations of any of the vacation rental regulations constitutes a violation of this Code subject to fines or punishable as a second degree misdemeanor and is also grounds for immediate termination of the lease and eviction from the leased premises and criminal penalties under F.S. § 509.151 ("defrauding an innkeeper"), F.S. § 509.141 ("ejection of undesirable guests"), F.S. § 509.142 ("conduct on premises) or F.S. § 509.143 ("disorderly conduct on premises, arrest").
- (7) The owner or agent shall require a lease to be executed with each vacation rental use of the property and maintain a guest and vehicle register listing all vacation rental occupants' names, home addresses, telephone numbers, vehicle license plate and watercraft registration numbers. Each lease and this register shall be kept by the vacation rental manager and available for inspection by county code enforcement personnel during business hours.
- (8) Vacation rental units must be registered, licensed and meet all applicable state requirements contained in F.S. ch. 212 (Florida Tax and Revenue Act) and F.S. ch. 509 (Public Lodging Establishments) as implemented by the Florida Administrative Code, as may be amended.
- (9) The vacation rental use must comply with all State of Florida Department of Health and State of Florida Department of Environmental Protection standards for wastewater treatment and disposal.
- (10) All vacation rental units shall have a vacation rental manager, who has been issued a vacation rental manager license by the planning department as provided for in subsection (h) of this section. The vacation rental manager shall reside within and be licensed for that section of the county (Upper, Middle, and Lower Keys) where the vacation rental unit is located and be available 24 hours per day, seven days a week for the purpose of promptly responding to complaints regarding conduct or behavior of vacation rental occupants or alleged violations of this section. Any change in the vacation rental manager shall require

written notification to the planning department and notification by certified return mail to property owners within 300 feet of the subject dwelling.

(11) Complaints to the vacation rental manager concerning violations by occupants of vacation rental units to this section shall be responded to within one hour. The neighbor who made the complaint shall be contacted by telephone or in person and informed as to the results of the actions taken by the manager. A record shall be kept of the complaint and the manager's response for a period of at least three months after the incident, which shall be available for inspection by the county code enforcement department during business hours.

(12) The name, address, and telephone number of the vacation rental manager, the telephone number of county code enforcement department and the number of the special vacation rental permit shall be posted and visible from the front property line of the vacation rental unit.

(13) The tenants' agreement with the rules of conduct shall be posted in a conspicuous location in each vacation rental unit.

D. Except as expressly set forth herein, the Association shall not implement any rule or regulation which unreasonably restricts or interferes with the ability of the Management Company to offer or operate its rental program for Residential Units and/or Docking Units at "PEACEFUL PALMS".

E. Unit Owner's do NOT have the right or authority to lease a dock to Renters. All Dock rentals shall be managed and handled directly by the Association, or a Management Company chosen by the Association to allow for the orderly rental of Docks in a central system. Any and all fees that Renters pay for reserving and using a Dock shall be paid directly to the Association ("Dock Rental Fees") and all such Dock Rental Fees shall be used by the Association as Association Fees/Dues. Declarant reserves the right (and later the Association shall have the right) to set the price for all Dock Rentals charged to Renters. Unit Owner's will not be charged Dock Rental Fees for their personal use of the Docks (i.e. that don't involve Renters).

#### 9.14 Maintenance and Repair.

A. By Owners. Each Owner agrees to: (a) maintain in good condition and repair the structural components of the Owner's Residential Unit and exterior surfaces such as walls, floors, screens, windows, doors, gutters, downspouts and roofs and to replace such items, when necessary. The Association shall have the right at its discretion, to make such maintenance or repair, if the Owner fails to do so following ten (10) days' written notice, or written or oral notice of a shorter duration in the event of an emergency situation, and to charge the Owner for the costs of same. If the Association charges an Owner for such repairs or maintenance, and the Owner fails to make prompt payment, the Association shall be entitled to place a lien against that Owner's Residential Unit and proceed as provided in Article VI hereof. An Owner shall be liable for the expense of any maintenance, repair or replacement made necessary by his act or negligence or by that of any member of his family or his or their guests, invitees, employees, agents or lessees, but only to the extent that expense is not met by the proceeds of insurance carried by the Association and then, conditioned on the extent of the right of subrogation of the Association's insurer.

B. By the Association. The Association shall be responsible for the maintenance, repair and replacement of all of the Common Properties including those portions which contribute to the support of the building, and all conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services. Should any incidental damage be caused to any Residential Unit by virtue of any work which may be done or caused to be done by the Association in the maintenance, repair or replacement of any Common Properties, the Association, shall, at its expense, repair such incidental damage. The costs of

such maintenance on the Common Properties shall be apportioned in equal shares among the Owners. However, to the extent such maintenance, repairs or replacements are necessitated by the negligence, misuse or neglect of an Owner, his family, guests or invitees, such costs shall be assessed against his Residential Unit and paid by the Owner. In the event of any dispute among the Owners regarding the costs of repair, maintenance or restoration of the Common Properties the Owner hereby designates the Board of Administration as arbiters of such dispute, whose decision shall be binding and conclusive upon them. In the event that one of such Owners is a Board Member, he shall stand down from such office during the hearing and decision on the dispute. Whenever it is necessary to enter any Residential Unit for maintenance, alteration or repair to any portion of the Common Properties, each Owner shall permit other Owners or their representatives, or the Association's duly constituted and authorized agent, to enter such Residential Unit for such purpose, provided that such entry shall be made only at reasonable times and with reasonable notice.

9.15 Maintenance by the Owner. The responsibility of each Owner to keep his Residential Unit in compliance with standards promulgated by the Architectural Control Committee of the Board shall be as follows:

- A. To maintain, protect repair and replace, at his own cost and expense, all interior portions of his Residential Unit above and below the mean high water line, together with all improvements and equipment located thereon, except any portions to be maintained, repaired and replaced by the Association. Such maintenance, protection, repair and replacement shall be done without disturbing the rights of the other Owners;
- B. Not to modify or change the appearance or design of any portion of the exterior of any Residential Unit without the prior written approval of the Association;
- C. To report promptly to the Association any defect or need for repairs, maintenance or replacements for which the Association is responsible; and
- D. To take reasonably appropriate actions to secure and protect his Unit in the event a hurricane, tropical storm or other windstorm event threatens Islamorada or the Upper Florida Keys, including but not limit to removing all personal property from porches and balconies and making provision for storm panels, shutters or other appropriate coverings on all windows and exterior doors.

9.16 Use of Land. No improvement or any portion of "PEACEFUL PALMS" shall be used for any purpose other than residential; provided however that temporary uses by Declarant, its affiliates and designees for model homes, sales displays, parking lots, sales offices and other offices, or any combination of such uses shall be permitted until Declarant shall determine that such use is no longer needed.

9.17 Exterior Colors. The exterior colors of all Improvements shall remain the colors initially established by Declarant unless approved by the Committee.

9.18 Satellite Dishes; Exterior Antennas. No satellite dishes, exterior radio antenna, television antenna, citizens band antenna or any other antenna of any type or nature shall be permitted in "PEACEFUL PALMS" without the Committee's prior written approval.

9.19 Motor Vehicles; Boats and Boat Trailers. No trucks, commercial vehicles, recreation vehicles, campers, derelict automobiles, boats or boat trailers may be parked in "PEACEFUL PALMS".

9.20 Windows; Interior Window Treatments; Shutters. No Owner shall place aluminum foil on either the interior or exterior surface of any exterior window or glass door. No Owner shall install any interior



window treatment other than of the type and specification provided by the Declarant at the time Declarant first transfers the Lot and improvements or as subsequently approved by the Association. No storm shutters shall be installed without the Committee's prior written approval.

9.21 Exterior Lighting. No Owner shall install exterior lighting (in addition to such exterior lighting as originally provided for the Residential Unit by Declarant) without the Committee's prior written approval.

9.22 Fences. No fences shall be permitted within "PEACEFUL PALMS" unless installed by Declarant during construction periods or as otherwise approved by Declarant or the Committee.

9.23 Laundry. No balcony, porch or other exterior portion of a Residential Unit shall be used for the purpose of drying of laundry or other items.

9.24 Food and Beverage Facilities. The Association shall not engage in food or beverage operations or any other retail or commercial operations in "PEACEFUL PALMS". Notwithstanding the foregoing, this restriction is not intended to restrict Owners from providing food or beverages for the personal consumption of the Owners, their guests, invitees and Renters, on the Owner's Lot or within the Owner's Residential Unit.

#### **ARTICLE X SECURITY AND TELECOMMUNICATION SYSTEM**

10.1 Installation. Declarant hereby reserves unto itself and its designees, successors, assignees and licensees the right (though no obligation is hereby assumed) to construct or install over, under, across and upon any portion of "PEACEFUL PALMS" for the use of the Owners and their permitted or authorized guests, invitees, Renters, and family members, a security and/or telecommunications system (the "System") the exact description, location and nature of which have and hereby reserves to itself and its designees, successors, assignees and licensees a perpetual and exclusive right, privilege, easement and right-of-way for the installation, construction and maintenance of the System (scope, extent, size and the location of which over, across, upon and through "PEACEFUL PALMS" shall be determined solely by Declarant, its successors, designee and assigns from time to time) together with a perpetual and exclusive right and privilege of (i) unlimited ingress and egress thereto for installing, constructing, inspecting, maintaining, altering, moving, improving, and replacing the facilities and equipment constituting the System including, without limitation, any towers, antennas, conduits, wires, cables, lines, panels, boxes, housings, connections, insulators and amplifiers necessary or desirable to receive and distribute services of the System including, without limitation, television and radio signals, surveillance, fire, police and emergency medical protection; and (ii) transmitting (the facilities and equipment of which shall be owned and exclusively controlled by Declarant, its successors and assigns or its designees).

10.2 System Services. Declarant shall have the right to enter contracts for the exclusive provision of the System as Declarant or its successor (including the Association) shall deem, in its sole discretion, to be in the best interests of the Project. The contract may provide that the basic System shall be mandatory for all Owners. The contract for the System may also provide as follows:

A. Every Residential Unit shall be subject to a charge, payable per Residential Unit on the first day of each month or quarter in advance, for basic cable television programming services and basic surveillance services.

B. The Association shall impose, along with common expense assessments and its regular maintenance assessment, against each Residential Unit contained within the association, the amount of the basic fees due and payable for the System and shall collect same and forthwith remit the amount collected to the Contractual Designee providing the System services.

C. Every Residential Unit Owner hereby agrees that the Association shall have a lien upon such Residential Unit for the respective charges.

D. Any mortgagee becoming a Residential Unit owner by reason of foreclosure of its mortgage or by accepting a deed in lieu thereof shall be excused from the payment of fees while it is such Owner and has not placed any other person in possession of such Residential Unit. Where a mortgagee or other Owner of a Residential Unit obtains title to the Residential Unit as a result of the foreclosure of a mortgagee, such acquirer of title, its successors and assigns, shall not be liable for the payment of the aforementioned charges pertaining to such Residential Unit which become due prior and where secured by a recorded lien to acquisition of title in the manner provided above.

E. The Contractual Designee may impose such additional charges for optional System services as is consistent with the rates for such services as approved by any local governmental agency having jurisdiction over the franchising of such services. Such services shall not be mandatory and charges therefor shall be individually billed to the Residential Unit Owner.

F. The term "Contractual Designee" or "Designees" means the company or companies with which Declarant or the Association has contracted for the furnishing of such System services, and may include an affiliate of Declarant.

G. The provisions of this Article X shall be effective for a period of fifteen (15) years from and after the date of recordation after which time they shall be extended, automatically, for successive periods of fifteen (15) years initially and two (2) ten (10) year periods thereafter, provided that upon demand of Declarant and/or the Association, or their successors and assigns, given at least one (1) year prior to the expiration of each term, the Contractual Designee or Designees, their successors and assigns, update their Systems to the then current state-of-the-art as determined by agreement or, in its absence, by arbitration.

H. Enforcement shall be by an appropriate action at law or in equity against any parties or persons violating or attempting to violate any covenants. If Declarant or the Association is required to bring action to enforce the provisions of this Article X, it shall be entitled to payment of court costs and reasonable attorney's fees.

#### **ARTICLE XI DEVELOPER RIGHTS, RESERVATIONS AND EXEMPTIONS**

11.1 Declarant's Rights. Declarant hereby reserves to itself, and the grantee of any Residential Unit or other property within "PEACEFUL PALMS" hereby agrees, by acceptance of a deed of conveyance thereto, that Declarant shall have the following rights, without notice or approval, so long as Declarant owns any portion of the Property in "PEACEFUL PALMS", including any portion of the Property, Lot or any Residential Unit owned by Declarant as the result of any reconveyance from a third party to Declarant, or until Declarant causes to be recorded a Certificate of Termination of Interest in "PEACEFUL PALMS" (or unless expressly provided to the contrary herein), which Certificate terminates any and all right, title, interest and obligation of Declarant in "PEACEFUL PALMS":

A. The right to replat, vacate or withdraw any area of any platted area from the property subject to this Declaration, provided that Declarant owns all property which is subject to the plat. The invalidation or unenforceability of this right shall in no way affect the enforceability of the other covenants and restrictions contained in this Article, this Declaration or any supplemental declaration;

B. The right to dispense pesticides throughout the Property;

C. Until such time as the Common Properties have been conveyed to the Association, the right to retain legal and equitable title to the Common Properties, or to sell, lease or otherwise convey all or any part of its interest in the Property and to demolish, alter or modify in whole or in part, any improvements on the Common Properties;

D. The right to establish easements for itself and others over any portion of the Property which is owned by Declarant;

E. The right to convey, in whole or in part, any easements granted in favor of Declarant, as created in this Declaration or as recorded in the Public Records of Monroe County, Florida, which pertain to "PEACEFUL PALMS";

F. The right, for any reason, including, without limitation, in order to meet requirements of any applicable law, code, ordinance, rule or regulation of any governmental or quasi-governmental authority or lending institution or bond issuing authority or development agency or the like, to make changes, amendments, supplements or modifications to any or all of the covenants, restrictions, easements, reservations, agreements, documents or instruments affecting the Property, "PEACEFUL PALMS" or any portion thereof, whether recorded, or unrecorded, as Declarant, its successors and assigns, may deem reasonable, necessary, appropriate or convenient, provided that any one of the foregoing singly or taken collectively will not materially adversely affect the Residential Unit of any Owner. The foregoing shall not restrict or limit Declarant, or its successors' and assigns' ability to amend, modify or supplement this Declaration as herein otherwise provided.

G. The right to purchase any Residential Unit where there was a violation of Section 9.12 or Section 11.5, shall be at a price for which Declarant may repurchase as follows. The Repurchase Price shall be the then fair market value of the Unit as may be agreed upon by the parties or the value arrived at by a bona fide appraisal in the event of a dispute. In the event the parties are unable to agree upon a licensed appraiser, then each shall be entitled to name an appraiser. The two appraisers shall then select a third appraiser. The Repurchase Price shall equal the value of the Unit as determined by the average fair market value determined by the three appraisers. The Owner shall deliver a general warranty deed to the Unit in exchange for the Repurchase Price to be paid by Declarant at the closing of the repurchase which shall be held within thirty (30) days following written determination of the Repurchase Price. This right to repurchase shall terminate and be of no further force and effect thirty (30) years from the date of the initial recordation of this Declaration in the Public Records of Monroe County, Florida.

H. The right to erect or grant to an Owner the right to erect temporary buildings on any portion of the Property which is owned by Declarant or title to which has been granted by Declarant to an Owner;

I. The right to maintain an easement for construction, reconstruction or repair purposes, across any property within "PEACEFUL PALMS";

J. The right to alter and amend the Master Site Plan; provided that approval from all governmental agencies having jurisdiction over such Master Site Plan has been obtained ;

K. The right to alter, amend, approve, dispose of, and designate the plan and facilities which provide water and wastewater treatment service and irrigation service to the Property, provided that approval from all governmental agencies having jurisdiction over same has been obtained;

L. The right to maintain a sales office in "PEACEFUL PALMS", including, without limitation, a sales office on a portion of the Common Properties, and to erect signs and to conduct sales throughout "PEACEFUL PALMS";

- M. The right to establish the security system in PEACEFUL PALMS;
  - N. The right to appoint the members of the Architectural Control Committee for such time as Declarant owns any property in "PEACEFUL PALMS";
  - O. The right to conduct the development, marketing and sale of property in PEACEFUL PALMS owned by Declarant or any third party with whom Declarant may so contract to provide such services;
  - P. During the time Declarant is engaged in construction on "PEACEFUL PALMS", the right to install and maintain a radio communications system;
  - Q. The right to have affiliates of Declarant engaged to provide management, maintenance and similar services for the Association;
  - R. An irrevocable power of attorney, coupled with an interest, of all Owners in favor of Declarant for as long as Declarant owns any portion of the Property or any Residential Unit within "PEACEFUL PALMS", to exercise any of the foregoing or other rights or discharge any of the foregoing or other obligations which may be set forth therein for the benefit of Declarant or as an obligation of any Owner. This power of attorney shall be self-operative and shall not require any additional instrument to effectuate same. An Owner, by acceptance of a deed, thereby acknowledges and confirms (and, to the extent required, grants) the power of attorney set forth herein; and
  - S. An irrevocable designation and appointment of Declarant, its successors and assigns, by each Owner, as such Owner's attorney-in-fact, to execute and deliver any applications for approval, platting, consents, amendments, variance or other documents or instruments as Declarant its successors and assigns, may from time to time request. The foregoing power-of-attorney, designation and appointment shall be coupled with an interest, shall be self-operative and shall not require any additional instrument to effect same; provided, however, that same shall be limited in time and duration to a period of ten (10) years from and after the date that the initial Owner, other than Declarant or an affiliate of Declarant, takes title to a Residential Unit from Declarant.
- 11.2. Veto Power. Declarant hereby expressly reserves to itself, and any grantee of any Lot or Residential Unit hereby agrees, by acceptance of a deed of conveyance thereto, that Declarant shall have the right to veto any or all of the following events so long as Declarant owns any part of the Property or "PEACEFUL PALMS"; including property owned by Declarant as the result of any reconveyance of property, or until Declarant causes to be recorded a Certificate of Termination of Interest in PEACEFUL PALMS, which Certificate terminates any and all right, title interest and obligation of Declarant in "PEACEFUL PALMS":
- A. Construction of improvements approved by the Association;
  - B. Construction of any dune or access way approved by the Association;
  - C. Association approval which permits the conduct of any commercial enterprise within "PEACEFUL PALMS";
  - D. Any or all Association budgets, annual or otherwise which constitute an increase or reduction of fifteen percent (15%) over the prior year's (or other applicable interval) budget;
  - E. Approval of any plans or specifications for any structure made by the Architectural Control Committee;
  - F. Attempted re-subdivision of the Property or any part thereof;

- G. Any attempted dissolution or termination of the Association;
- H. Attempted amendment of this Declaration, the Articles, and By-Laws, any supplementary declaration of protective covenants and restrictions or the Master Site Plan;
- I. Any management contracts entered into by the Association or Board;
- J. Any reduction to the security system for "PEACEFUL PALMS";
- K. Attempted relocation of the sales center used by Declarant, its successors or assigns;
- L. The creation of any special assessments by the Association;
- M. Any capital improvement assessments by the Association;
- N. Any settlement of any claim made by Association to collect upon any policy of casualty insurance which insures the Common Properties;
- O. Any attempted cancellation or reduction of insurance coverage insuring all or any part of "PEACEFUL PALMS"; and
- P. Any matter adversely affecting Declarant or its interests.

11.3 Right to Alter Common Properties. Declarant hereby reserve the right, in their sole discretion, as follows:

- A. To alter all or any portion of the Common Properties to which Declarant holds title; and
- B. To mortgage all or any portion of the Common Properties to which Declarant holds title; provided that the Common Properties shall be free of mortgages at time of conveyance to the Association.

11.4 Declarant's Additional Reserved Rights. Notwithstanding anything herein to the contrary, Declarant shall have the right, with respect to the development of "PEACEFUL PALMS", to construct buildings and Residential Units and other Improvements and install landscaping of such type, nature, shape, height, color, materials and location as Declarant shall determine in its sole and absolute discretion; provided, however, that same shall comply with the applicable building codes and Islamorada zoning laws in force at that time. Until such time as Declarant shall own no Land or Residential Unit within "PEACEFUL PALMS", Declarant shall be entitled to place on Land and/or Residential Units owned by Declarant temporary construction or sales trailers and other temporary facilities and conduct its sales and marketing efforts as Declarant shall deem appropriate.

11.5 Declarant's Rights to Repurchase. Declarant shall have the following repurchase rights:

- A. Right of First Refusal. Any Residential Unit Owner who receives a bona fide offer to purchase his Residential Unit (such offer to purchase a Residential Unit is called an "Outside Offer", the party making any such Outside Offer is called an "Outside Offeror", and the Residential Unit Owner to whom the Outside Offer is made is called an "Offeree Unit Owner"), which he intends to accept, shall within five (5) days following receipt of such Outside Offer give notice by certified mail, return receipt requested, to Declarant of such Outside Offer. Said notice shall be accompanied by a copy of the written Outside Offer

and shall state the name and address of the Outside Offeror, the terms of the proposed transaction and such other information as Declarant may reasonably require. The giving of such notice to Declarant shall constitute an offer by such Unit Owner to sell his Residential Unit to Declarant or its designee upon the same terms and conditions as contained in such Outside Offer and shall also constitute a warranty and

representation by the Unit Owner who has received such Outside Offer to Declarant that such Unit Offer believes the Outside Offer to be bona fide in all respects. The Offeree Unit Owner shall submit in writing such further information with respect thereto as Declarant may reasonably request. Not later than thirty (30) days after receipt of such notice, together with such further information as may have been requested, Declarant or its designee may elect, by sending written notice to such Offeree Unit before the expiration of said thirty (30) day period by certified mail, to purchase such Residential Unit upon the same terms and conditions as contained in the Outside Offer and as stated in the notice from the Offeree Unit Owner. In the event Declarant or its designee shall fail to accept such offer within said thirty (30) day period, the Offeree Unit Owner shall be free to accept the Outside Offer within sixty (60) days after (i) notice of release of Declarant's right of first refusal; or

(ii) the expiration of the period within which Declarant or its designee might have accepted such offer, as the case may be. In the event the Offeree Unit Owner shall not within such sixty (60) day period, accept in writing, the Outside Offer or if the Offeree Unit Owner shall accept the Outside Offer within such sixty (60) day period, but such sale shall not be consummated in accordance with the terms of such Outside Offer or within a reasonable time after the date set for closing thereunder, then, should such Offeree Unit Owner thereafter elect to sell such Residential Unit, the Offeree Unit Owner shall be required to again comply with all of the terms and provisions of this Section. Any deed to an Outside Offeror shall provide (or shall be deemed to provide) that the acceptance thereof by the grantee shall constitute an assumption of the provisions of the Declaration, the By-Laws, the Articles of Incorporation, applicable rules and regulations and all other agreements, documents or instruments affecting "PEACEFUL PALMS" or administered by Declarant, as the same may be amended from time to time.

B. Sale Voidable. Any purported sale of a Residential Unit in violation of this Section shall be voidable at any time at the election of Declarant and Declarant shall have the right to institute legal proceedings to void the conveyance. Said Unit Owner shall reimburse Declarant for all expenses (including attorney's fees and disbursements incurred in connection with such proceedings).

C. Release by Declarant of the Right of First Refusal. The right of first refusal contained in this Section 11.5 may be released or waived by Declarant only in the manner provided herein. In the event Declarant shall release or waive its right of first refusal as to any Residential Unit, such Residential Unit may be sold or conveyed to the Outside Offeror.

D. Certificate of Termination of Right of First Refusal. A certificate executed and acknowledged by Declarant stating that the provisions of this Section 11.5 have been satisfied by a Unit Owner, or stating that the right of first refusal contained therein has been duly released or waived by Declarant and that as a result thereof, the rights of Declarant thereunder have terminated (as to that sale only) shall be conclusive with respect to all persons who rely on such certificate in good faith. Declarant shall furnish such certificate upon request to any Unit Owner in respect to whom the provisions of such Section have, in fact, terminated or been waived. No fee shall be charged by Declarant in connection with the furnishing of such certificate.

E. Exceptions. The provisions of this Section 11.5 shall not apply with respect to any sale, transfer, gift or conveyance of any Residential Unit by (i) the Unit Owner thereof to his spouse, adult children, parents, parents-in-law, adult siblings or a trustee, corporation or other entity where the Residential Unit and/or the Docking Unit or the aforementioned related persons are and continue to be the sole beneficiary or equity owner of such trust, corporation or other entity, or to any one or more of the above, (ii) the Declarant, (iii) any proper officer conducting the sale of a Residential Unit in connection with the foreclosure of a mortgage or other lien covering such Residential Unit or delivering a deed in lieu of foreclosure, or (iv) an institutional first mortgagee (or its designee) deriving title by virtue of foreclosure of

its mortgage or acceptance of a deed in lieu of foreclosure; provided, however, that each succeeding Unit Owner shall be bound by, and his Residential Unit shall be subject to, the provisions of this Section 11.5.

#### **ARTICLE XII DECLARANT'S EXEMPTIONS**

Neither the Association nor any Residential Unit Owner nor any Docking Unit Owner shall do anything to interfere with Declarant's activities at "PEACEFUL PALMS". As used in this Section and its subparagraphs, the words "its successors or assigns" specifically do not include purchasers of individual Residential Units. Without limiting the foregoing, nothing in this Declaration shall be construed or interpreted to:

- A. Prevent Declarant, its successors or assigns, or its or their agents, contractors or subcontractors, from doing on any property owned by them or on the Common Properties whatever they determine to be necessary or advisable in connection with the completion of said work, including without limitation, the alteration and removal of Improvements and the reallocation of any use thereon and the termination of services as Declarant deems advisable in the course of development (all models or sketches showing plans of "PEACEFUL PALMS" may be modified by Declarant at any time and from time to time, without notice to any Owner, prospective Owner, or other person or entity); or
- B. Prevent Declarant, its successors or assigns, or its or their contractors, subcontractors or representatives, from erecting, constructing and maintaining on any portion of the Property owned or controlled by them or on the Common Properties, such structures as may be reasonably necessary in Declarant's judgment for the conduct of its or their business of completing said work and establishing "PEACEFUL PALMS" as a community and disposing of the same by sale, lease or otherwise; or
- C. Prevent Declarant, its successors or assigns, from determining in its sole discretion the nature of any type of Improvements to be included as part of "PEACEFUL PALMS", including Improvements on the Common Properties; or
- D. Prevent Declarant, its successors or assigns, or its or their contractors, subcontractors or representatives, from erecting, maintaining, altering or otherwise using signs on the Property owned or controlled by any of them or on the Common Properties as may be necessary in connection with the sale, lease, operation or marketing of Residential Units or Lots or Docking Units, or otherwise from taking such other actions deemed appropriate in connection with such signs.
- E. In general, Declarant shall be exempt from all restrictions set forth in this Declaration to the extent such restrictions interfere in any manner with the Declarant's plans for operation, construction, development, use, sale or other disposition of the Property and/or PEACEFUL PALMS, or any part thereof.

#### **ARTICLE XIII DAMAGE OR DESTRUCTION TO COMMON PROPERTIES**

Damage to or destruction of all of any portion of the Common Properties shall be handled in the following manner, notwithstanding any provision in this Declaration to the contrary:

- A. In the event of damage to or destruction of the Common Properties, if the insurance proceeds are sufficient to effect total restoration, then the Association shall cause such Common Properties to be repaired and reconstructed substantially as it previously existed.
- B. If the insurance proceeds are within One Million Dollars (\$1,000,000.00) or less of being sufficient to effect total restoration to the Common Properties, then the Association shall cause such Common Properties to be repaired and reconstructed substantially as it previously existed and the difference between

the insurance proceeds and the actual cost shall be levied as a Reconstruction Assessment against each of the Owners, in accordance with the provisions of Article VI of this Declaration.

C. If the insurance proceeds are insufficient by more than One Million Dollars (\$1,000,000.00) to effect total restoration to the Common Properties, then by written consent or vote of two-thirds (2/3) of the Members, they shall determine whether (1) to rebuild and restore the Common Properties in substantially the same manner as they existed prior to damage and to raise the necessary funds over the insurance proceeds by levying Reconstruction Assessments against all Owners, (2) to rebuild and to restore in a way which is less expensive than replacing these Improvements in substantially the same manner as they existed prior to being damaged, or (3) subject to the approval of the Committee, not to rebuild and to retain the available insurance proceeds. Anything to the contrary herein notwithstanding, no decision not to rebuild or to rebuild in a manner which would result in a change in the Improvements shall be effective without the written approval of the Committee, which can require rebuilding as it deems appropriate.

D. Each Owner shall be liable to the Association for any damage to the Common Properties not fully covered by collected insurance which may be sustained by reason of the negligence or willful misconduct of said Owner or of his family, Renters, guests and invitees, both minor and adult. Notwithstanding the foregoing, the Association reserves the right to charge such Owner a Special Assessment equal to the increase, if any, in the insurance premium directly attributable to the damage caused by such Owner. In the case of joint ownership of Property, the liability of such Owners shall be joint and several. The cost of correcting such damage shall be a Special Assessment against the Residential Unit and may be collected as provided herein for the collection of Special Assessments.

#### **ARTICLE XIV INSURANCE AND RECONSTRUCTION**

14.1 Owner's Casualty Insurance. Each Owner shall bear the risk of loss and damage to his Residential Unit and any and all furniture, personal effects and other personal property belonging to such Owner which property is located either in the Residential Unit, Docking Unit or in or on the Common Properties. The foregoing shall not apply: (a) to any property constituting a portion of the Common Properties ; or (b) to fixtures, installations or additions covered by the Association's casualty policy as provided in this Declaration. Each Owner is required to obtain, at the Owner's own expense, insurance coverage for casualty loss of or damage to the Owner's Residential Unit in an amount not less than 100% of the replacement value of such Unit, including without limitation fire, flood and windstorm. Evidence of Owner's insurance shall be provided by each Owner to the Association and such Insurance Coverage shall name the Association as a party to be notified in the event of a lapse or cancellation of such Insurance Coverage. In the event an Owner's Insurance coverage lapses or is cancelled, the Association shall have the right and authority to treat such lapse or cancellation as a violation and shall have any remedies available to compel such Owner to reinstate such Insurance Coverage or obtain new Insurance Coverage, including, but not limited to, obtaining forced placed insurance for such Unit and charging all fees associated with such coverage to that Owner. Insurance coverage for loss to personal property shall be obtained in the discretion of each Owner.

14.2 Owner's Liability Insurance. Each Owner shall be liable for injuries or damages resulting from an accident in his own Residential Unit, to the same extent that a homeowner would be liable for an accident occurring within his house. Each Owner may, at his own expense, obtain insurance coverage against personal liability for injury to the person or property of another while within such Owner's Residential Unit. No Owner shall be liable personally for any damages caused by the Association in connection with the use of the Common Properties .



14.3 Requirements Concerning Owner's Insurance . All such insurance obtained by any Owner shall, wherever available, state that the insurer waives its right of subrogation as to any claims against: other Owners; (b) the Association; and (c) the respective servants, agents and guests of other Owners.

14.4 Reconstruction of Residential Unit. In the event of loss or damage to a Residential Unit the Owner, with all due diligence, shall repair, replace and restore such damaged or destroyed portions of the Residential Unit to a condition as good as that before such loss or damage: (a) in accordance with the original plans and specifications for the Building; or (b) as the Building was last constructed; or (c) in accordance with plans approved by the Board of Administration. If the Owner shall refuse or fail to commence repair , replace or restore his Residential Unit within thirty (30) days, or to complete such work within six (6) months, the Association may repair, replace or restore the Residential Unit and charge the Owner for the cost of such work. The Association shall have a lien on the Residential Unit to secure reimbursement of such cost.

14.5 Association's Casualty Insurance. The Association shall maintain casualty insurance covering all buildings, including fixtures, installations or additions comprising parts of the buildings within the Common Properties, in accordance with the original plans and specifications, together with all service machinery contained therein, in an amount not less than 100% of the replacement value thereof (subject to reasonable deductible clauses), excluding foundation and excavation costs, all as determined annually by the Board. Such coverage shall afford protection against: (a) loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and (b) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use, including, but not limited to, vandalism and malicious mischief.

14.6 Association's Liability Insurance. The Association shall maintain comprehensive general public liability and automobile liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with PEACEFUL PALMS or adjoining driveways and walkways, or any work, matters or things related to "PEACEFUL PALMS" or to this Declaration and its exhibits, with such coverage as shall be required by the Board, but with combined single limit liability of not less than \$1,000,000 for each accident or occurrence, \$300,000 per person and \$50,000 property damage, and with cross liability endorsement to cover liabilities of the Owners as a group to an Owner and vice versa.

14.7 Association's Worker's Compensation Insurance. The Association shall maintain worker's compensation insurance to meet the requirements of law.

14.8 Other Types of Insurance. The Association also shall maintain:

- A. Flood insurance;
- B. Fidelity insurance covering all officers and employees of the Association ;
- C. Directors' liability insurance, if obtainable , with limits of \$300,000; and
- D. Such other insurance as the Board shall determine from time to time to be necessary and proper.

14.9 Insurer's Waiver. When appropriate and obtainable each of the foregoing policies shall waive the insurer's right to: (a) subrogation against the Association and against the Owners individually and as a group; (b) the prorata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; and (c) avoid liability for a loss that is caused by an act of the Board or by an Administrator or by one or more Owners.

14.10 Purchase of Association's Insurance. All authorized insurance for the Common Properties shall be purchased by the Association. The cost of the insurance shall be a Common Expense, as shall be any other fees and expenses incurred which may be necessary or incidental to carrying out the provisions hereof, except that the amount of increase in any premium occasioned by misuse, occupancy or abandonment of a Residential Unit or its appurtenances by an Owner shall be assessed against such Owner. Each policy shall be issued by an insurance company authorized to do business in Florida and with an office or agent located in the County.

14.11 Named Insured. The named insured shall be the Association individually and as agent for Owners and their mortgagees covered by the policy, without naming them.

14.12 Payment of Proceeds and Copies of Policies. All casualty policies insuring the structural components of Residential Units shall to the fullest extent available provide that the insurer's payments for losses shall be made to the Insurance Trustee for the use and benefit of the Insured, and copies of all policies and endorsements shall be deposited by each Owner with the Association.

14.13 Mortgagees. Each insurance policy, and company issuing the policy and the Insurance Trustee shall be subject to the approval of the Institutional Lender then holding the greatest dollar volume of Residential Unit mortgages. One copy of each insurance policy or a certificate evidencing same, and all endorsements thereon, shall be furnished by the Association to each mortgagee included in the mortgagee register. Copies or certificates shall be furnished not less than ten (10) days prior to the beginning of the term of the policy or not less than ten (10) days prior to the expiration of each preceding policy that is being renewed or replaced, whichever date shall occur first.

14.14 Insurance Trustee: Proceeds. All insurance policies of the Association shall be for the benefit of the Owners and their mortgagees, as their interests may appear, and shall provide that all proceeds covering property losses for structural components of Residential Units shall be paid to the Insurance Trustee, as designated by the Board, which shall be any bank, savings and loan or trust company in Florida with trust powers and with its principal place of business in the County. The Insurance Trustee shall not be liable for payment of premiums or for the renewal or the sufficiency of policies, or for the failure to collect any insurance proceeds. The Insurance Trustee's duty shall be to receive such proceeds as are paid and to hold the same in trust for the Owners and their respective mortgagees in the following shares (which shares need not be set forth in the Insurance Trustees records):

14.14.1. Damage to Common Properties. All proceeds from insurance policies insuring Common Properties shall be paid to the Association.

14.14.2. Damage to Multiple Residential Units within a Building. When more than one Residential Unit in a Building is damaged and the Building is to be restored, an undivided share of the proceeds shall be held for each Owner in such Building in that the cost of repairing the damage sustained by each Residential Unit as determined by the Insurance Trustee, bears to the total proceeds received.

14.14.3. Assessments Where Proceeds are Insufficient. If it shall appear that the insurance proceeds covering casualty loss or damage are insufficient to pay for the repair, replacement or reconstruction of the loss or damage sustained by all Residential Units within a Building, then the Owners of the damaged Residential Units in such Building shall deposit with the Insurance Trustee a sum which, together with the insurance proceeds, will be sufficient to completely pay for the repair, replacement or reconstruction of such loss or damage. If any Owner fails to deposit such Owner's share of the required fund, then the Association shall levy and collect an assessment against such Owner, in the amount needed to pay such Owner's share for such repair, replacement or reconstruction.

14.14.4. Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed in the following manner:

A. Expenses of the Trust. All expenses of the Insurance Trustee shall be first paid or provision made therefor.

B. Reconstruction or Repair. All expenses for the repair, replacement or reconstruction of the structural components of each damaged Residential Unit shall next be paid or provision made therefor.

C. Remaining Proceeds. If the damage shall be repaired or reconstructed, the remaining proceeds shall be paid to defray the costs thereof. Any proceeds remaining after defraying such costs shall be distributed according to the Owners from whom proceeds were paid to the Insurance Trustee and their mortgagees, being payable jointly to them. Such payment shall be based upon the prorata relationship of payments made by all Owners to the Insurance Trustee.

D. Failure to Reconstruct or Repair. If it is determined that the damage shall not be reconstructed or repaired, the remaining proceeds shall be divided among all the Owners in proportion to their respective contributions to the Insurance Trustee; provided, however, that no payment shall be made to an Owner until all liens on his Residential Unit have been satisfied from his share of the fund by distributing first to the Institutional Lender in an amount sufficient to satisfy and pay its mortgages in full, and the balance, if any, to the Owner with the provision that remittances to the Owner and his mortgagee shall be payable jointly to them.

E. Certificate. In making distribution to Owners and their mortgagees, the insurance Trustee may rely upon a certificate of the Association executed by its President and Secretary as to the names of the Owners and their mortgagees.

14.19 Mortgagees. Certain provisions in this Article are for the benefit of the mortgagees of Residential Units and may be enforced by such mortgagees. No mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions thereof made pursuant to this Article. No mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired.

14.20 Association as Agent. The Association is hereby irrevocably appointed agent for each Owner and mortgagee to adjust all claims arising under insurance policies purchased by the Association to insure the Common Properties and to execute and deliver releases upon the payment of claims.

14.21 Determination to Reconstruct or Repair. The Association shall be responsible for reconstruction and repair after casualty loss or damage to the Common Properties.

14.22 Plans and Specifications. Any reconstruction or repair of any Residential Unit or Docking Unit or the Common Properties must either be: (a) substantially in accordance with the original plans and specifications for the original improvements; or (b) according to plans and specifications approved by the Board and the Architectural Committee of the Homeowner's Association. If the damaged property is a Building containing Residential Units, then the plans and specifications must be approved by the Owners owning at least two-thirds (2/3) of the Residential Units, including the Owners of all Residential Units (and their respective mortgagees) which are to be altered by virtue of such plans and specifications.

14.23 Contracts for Repair of Residential Units. The Insurance Trustee shall obtain reliable and detailed estimates of the cost to rebuild or repair damage. The estimates shall be obtained immediately after a determination is made to rebuild or repair. Before they may become binding, all contracts for repair,

replacement or reconstruction of loss or damage shall be approved by a majority of the damaged Residential Units within the affected Building .

14.24 Responsibility to Insure Improvements. Each Owner shall insure the Improvements owned by such Owner. Insurance coverage for the Residential Units shall include all perils, including, without limitation, hazard, fire, windstorm and flood. The cost of such insurance shall be borne by the Owner. Insurance for each Residential Unit shall be in an amount equal to the full "replacement" value thereof. The term "replacement value" means one hundred (100%) percent of the then current replacement cost, exclusive of land, foundation, items of personal property and other items normally excluded from such coverage. Upon the written request of any Owner within a Building mailed by certified mail, return receipt requested, the requested Owner shall provide written proof of insurance to the requesting Owner by certified mail, return receipt requested.

#### **ARTICLE XV MORTGAGEE PROTECTION CLAUSE**

The following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added shall control):

A. Each institutional first mortgagee holding a mortgage encumbering any Residential Unit, at his written request, is entitled to written notification from the Association of any default by the Owner of such Residential Unit in the performance of such Owner's obligations under this Declaration, the Articles of Incorporation of the Association or the By-Laws of the Association, which default is not cured within thirty (30) days after the Association learns of such default and to written notification of the recording of a Claim of Lien pursuant to Article VII.

B. Unless at least 66-2/3 % of such mortgagees (based upon one vote for each such mortgage owned), and at least 66-2/3% of the votes of Members of the Association, have given their prior written approval, neither the Association nor the Owners shall:

1. by act or omission seek to sell or transfer the Common Properties and the Improvements thereon which are owned by the Association (the granting of easements for utilities or for other such purposes consistent with the intended use of such property by the Association or the Declarant or the transfer of the Common Properties or any portion thereof to another not for profit association of the Owners in accordance with the Articles of Incorporation of the Association or dedication of such property to the public or condominium ownership shall not be deemed a transfer within the meaning of this clause);

2. fail to maintain fire and extended insurance on insurable portions of the Common Properties as provided herein; or

3. use hazard insurance proceeds for losses to any Common Properties for other than the repair, replacement or reconstruction of such Improvements (except as contemplated herein).

C. Such mortgagees shall have the right to examine the books and records of the Association during normal business hours.

D. All such mortgagees who have registered their names with the Association, and as long as it owns a mortgage on any Residential Unit shall be given (1) thirty (30) days written notice prior to the effective date of any proposed, material amendment to this Declaration or the Articles of Incorporation or By-Laws of the Association and prior to the effective date of any termination of any agreement for professional management of the Common Properties hereafter entered into, if any, following a decision of the Owners to assume self-management of the Common Properties; and (2) immediate notice following any damage to

the Common Properties whenever the cost of reconstruction exceeds One Hundred Thousand Dollars (\$100,000.00), and as soon as the Board learns of any threatened condemnation proceeding or proposed acquisition or any portion of the Common Properties.

E. Such mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any portion of the Common Properties and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such property, and such mortgagees making such payments shall be owed immediate reimbursement therefore from the Association and the appropriate Owners.

## **ARTICLE XVI ENCROACHMENTS AND EASEMENTS**

16.1 Encroachments. When the wall, window, roof or any other part of a Residential Unit (hereinafter called "overhang"), as initially constructed by the Declarant encroaches beyond the property line of any Residential Unit or the Common Properties, the ownership and responsibility for the maintenance of said wall, window, roof or overhang encroaching upon said Residential Unit(s) or the Common Property shall be that of the Owner of the Residential Unit to which said wall, window, roof or other overhang is a part. In order to maintain, repair, replace or reconstruct (hereinafter, collectively, "maintenance"), the said wall, window, roof or other overhang, the Owner of the Residential Unit of which said wall, window, roof or other overhang, is a part, and, if applicable, the Association, shall have the following easements:

A. An easement through, over and upon any Residential Unit and/or the Common Properties as necessary for the purpose of maintaining the structural integrity and aesthetic appearance of the wall, window, roof or other overhang which easement shall only be used at a time convenient to the Owner of the burdened Residential Unit; and

B. An easement into the airspace of the other Owner's property and/or the Common Properties as necessary for the purpose of permitting the encroachment of the aforementioned wall, window, roof or other overhang, as initially constructed by the Declarant.

16.2 Party Walls. Each wall built as part of the initial construction by the Declarant of the Residential Units upon the Lot and place on the property line dividing individual Residential Units shall constitute a party wall and each adjoining Owner shall own that portion of the party wall which has been erected upon his Lot, with a cross-easement for support and maintenance in the remaining portion of the party wall. For the purpose of maintaining structural integrity to common party walls, the costs for such maintenance and repairs thereto shall be shared equally by the Owners of the adjoining Residential Units making use of the common party wall. In the event of damage or destruction of the common party wall from any cause whatsoever, other than the negligence or willful misconduct of either Owner thereto, the Owners shall, at their joint expense, repair or reconstruct the common party wall and each Owner shall have the right to full use of said common party wall so repaired or rebuilt. If either Owner's negligence or willful misconduct causes damage or destruction of said wall, the Owner guilty of such negligence or willful misconduct shall pay the entire cost of such repair or reconstruction. If one of the Owners refuses to pay his share, or all of such costs in the case of negligence or willful misconduct, the other Owner shall have the right to have such common party wall repaired or reconstructed and shall be entitled to a lien on the premises of the Owner so failing to pay for the amount of such defaulting Owner's reasonable share of the repair or reconstruction costs.

16.3 INTENTIONALLY DELETED

16.4 Easements in General. If any grant of any easement in this Declaration would otherwise fail by virtue of the nonexistence of the grantee thereof as of the date of this Declaration, then the Association automatically shall be deemed to be the attorney-in-fact for such grantee to hold the interest created by such grant of easement until such grantee shall come into existence, at which time the interest created by such grant of easement automatically shall become vested in such grantee. The Common Properties shall be subject to a perpetual non-exclusive easement in favor of each Lot which shall be appurtenant to and shall pass with title to each Lot for use by the Owner, his immediate family, guests and invitees, for all proper and normal purposes including ingress and egress. The Common Properties also shall be subject to such a perpetual non-exclusive easement in favor of Owner and Declarant and their respective agents, employees, invitees, successors and assigns.

16.5 Easements for Public and Private Utility Facilities. Drainage and Access. It being understood that at the time of the recording of this Declaration the exact location of utility facilities, drainage facilities and ingress and egress roadways, and appurtenant equipment within "PEACEFUL PALMS" have not yet been determined, Declarant hereby reserves for itself, its successors and assigns, such perpetual easements as are necessary and required over, under, upon and/or through the Property for ingress, egress and access to and the installation construction, operation, alteration, expansion, repair, replacement and maintenance of utilities, cable television, drainage facilities and roadways for ingress and egress. This reservation hereby grants to the utility entities and the Declarant (so long as Declarant is constructing, repairing or relocating utilities and facilities appurtenant thereto in aid of construction of the property) the right of ingress, egress and access to and the right to construct, install, operate, alter, expand, replace and maintain such utilities, cable television, drainage facilities and roadways for ingress and egress within any part of the Property, provided, however, use of such easements and improvements shall not unreasonably interfere with the use of the Property for the purposes intended for the Residential Units. In order to accomplish the foregoing, each portion of the Property shall have an easement in common with all other portions thereof to use, maintain, repair, alter or replace all pipes, wires, ducts, vents, cables, conduits, utility lines, sanitary sewers, storm drains, water lines, manholes, lifts stations pumping stations and similar or related facilities located within the Property and serving such portion or portions. Each portion of the Project shall be subject to an easement in favor of all other portions thereof to use, maintain, repair, alter and replace the pipes, wires, ducts, vents, cables, conduits, utility lines, sanitary sewers, storm drains, water lines, manholes, liftstations, pumping stations and other similar or related facilities located in such portion of the Property and serving other portions thereof. Independent of the foregoing rights, Declarant, its successors or assigns, and Association are hereby granted the additional right to grant such additional easements or relocate existing easements throughout the Property as Declarant or Association may deem necessary and desirable provided that such additional easements or relocation of easements do not unreasonably interfere in the use of the Property for the purposes so intended, and further provided that in the event of a conflict in decisions between Declarant and Association, the Declarant's decision shall control until such time as all Residential Units have been constructed and transferred by Declarant to third-party Owners.

16.6 Easements of Support. Whenever any structure included in the Common Properties adjoins any structure included in any other portion of the Property, each said structure shall have and be subject to an easement of support and necessity in favor of the other structure.

16.7 Easements for Maintenance. Easements are hereby reserved in favor of the Association under, upon, across, through and over all portions of "PEACEFUL PALMS" for the purpose, as deemed necessary by the Association for preserving and maintaining the land, Residential Units, the Docking Units, and carrying out its responsibilities under this Declaration; provided, however, that all such activity shall be undertaken in a manner so as to minimize interference with any Owner's use of his property. Where any

land, including any Improvement thereon, ("the Servient Estate") shall abut an adjacent lot line ("the Dominant Estate"), then the Owner of the Dominant Estate shall have an easement over the Servient Estate, which easement shall only be to extent necessary and in any event not to exceed four (4) feet wide contiguous to the interior property line running from the front to the rear property line of the Servient Estate for the following purposes:

- A. For painting (where permitted), repairing and otherwise maintaining each wall of the Residential Unit and Docking Unit in such Dominant Estate abutting the aforesaid property line.
- B. For support in and to all structural members, footings and foundations of any Improvements on the Dominant Estate; provided, however, that nothing herein shall be construed as requiring the Owner of the Servient Estate to erect (or permit erection of) columns, load bearing walls or other structures on the Servient Estate for support of the Improvements on the Dominant Estate.
- C. For entry upon and ingress and egress through the Servient Estate with persons, materials and equipment to the extent reasonably necessary in the performance of maintenance, repair, replacement of any of the Improvements on the Dominant Estate.
- D. For overhanging troughs, gutters and downspouts and the discharge therefrom of rainwater and subsequent flow thereof over the easement area .

16.8 Easements for Improvements. If, for any reason:

- A. Any Improvements are built or exist upon any portion of the Common Properties or Residential Unit, or
- B. Any other similar situation shall hereafter or heretofore exist as a result of:
  - 1. Construction by Declarant of any Improvement;
  - 2. Settling or shifting of any Improvement; or
  - 3. Any repair or restoration of any Improvement after damage by fire or other casualty or taking by condemnation or eminent domain proceedings; then, in any such event, an easement shall exist for such Improvements and for the maintenance of same so long as the said Improvements shall exist.

16.9 Easements for HVAC Equipment. Each Residential Unit shall have an HVAC system allocated to it. The HVAC systems for the Units shall be located on elevated, wooden pads adjacent to the buildings in which the Units are located. After conveyance of a Unit to an Owner, the Owner shall be solely responsible for repairing, maintaining and replacing, the HVAC equipment and the wooden pad associated with their Unit. Each Owner shall have the following easements:

- A. An easement through, over and upon any Residential Unit and/or the Common Properties as necessary for the purpose of maintaining the HVAC equipment and pad; and
- B. An easement on the Common Properties and into the airspace of the Common Properties or Residential Units as applicable for the purpose of permitting the encroachment of the aforementioned HVAC equipment and pad as initially constructed by the Declarant.

16.10 Easement for Pedestrians and Vehicles. In addition to the general easements for use of the Common Properties reserved herein there shall be, and the Declarant hereby reserves and covenants for itself and all Owners within PEACEFUL PALMS that each and every Owner, and Declarant and their respective licensees, invitees, grantees, successors and assigns as permitted by Association, shall have, a non-exclusive

easement appurtenant for pedestrian and vehicular traffic over, through and across all pedestrian and vehicular access ways within the Common Properties, subject to the parking provisions of this Declaration. Association and any Member which is required to join in the grant of any such easement shall be obligated to execute any such instrument as may be requested of it from time to time to effect such grant of easement.

16.11 Easements for Public and Private Utility Uses. In addition to the foregoing easements affecting the Common Properties, there shall be, and Declarant hereby grants perpetual easements for public, Federal, State, County, City and private utility and other services, including, but not limited to, the right of the police to enter upon, pass over and across any part of the Common Properties for the purpose of enforcing the Law or maintaining security, and the right of all lawful emergency vehicles, equipment and persons in connection therewith to enter upon, pass over and across all portions of the property to service the Declarant, Owners, residents and all Improvements and the right of all public and private utility companies to install, construct, operate, alter, expand, repair, replace and maintain their equipment and facilities in areas designated for such purposes. In addition to the foregoing easements affecting the Common Properties, there shall be, and Declarant hereby grants perpetual easements specifically to the Village of Islamorada for ingress and egress over the Common Properties for all governmental services. Independent of the foregoing rights, Declarant, its successors or assigns, and Association are hereby granted the additional right to grant such additional easements or relocate existing easements throughout the Property as Declarant or Association may deem necessary and desirable provided that such additional easements or relocation of easements do not unreasonably interfere in the use of the Property for the purposes so intended, and further provided that in the event of a conflict in decisions between Declarant and Association, the Declarant's decision shall control until such time as all Residential Units have been constructed and transferred by Declarant to third-party Owners.

16.12 Easements for Access, Repair and Maintenance. Declarant reserves unto itself, and its successors and assigns, perpetual non-exclusive easements of ingress and egress over and across the access ways existing from time to time in "PEACEFUL PALMS", and perpetual non-exclusive easements to enter upon, over, under or through all portions of the Property for the purpose of maintaining, repairing and replacing the Residential Units, Improvements of Lots owned by Declarant and the Common Properties which easements shall be for the use of Declarant, Association (and its and their respective successors and assigns), Owners, and their respective lessees, employees, agents, invitees and licensees. Declarant hereby expressly retains the right to grant easements and rights to the public through, over, under and upon the Common Properties and other property within "PEACEFUL PALMS" and to grant easements and rights to such municipal and governmental authorities as required from time to time, including, without limitation, water management agencies.

16.13 Emergency Access. The Association shall have the right, privilege and license to enter upon any Residential Unit and upon and across the Common Properties for the purpose of effecting any repairs to that same Residential Unit or to any other Residential Unit and/or exterior portion of any improvements thereon and/or to any Common Properties and to do such other maintenance and repairs as shall be reasonably necessary for the proper maintenance of the same Residential Unit or of any other Residential Unit or of the Common Properties abutting such Residential Unit.

16.14 Easements for Management Companies and Service Providers. Easements are hereby reserved in favor of the Management Company (including any successor management company approved by the Association) and service providers for Rental Agreement Participants under, upon, across, through and over all portions of the Common Properties (including, without limitation, Management Company personnel or contractors performing services for the benefit of the Association, Owners, their guests and invitees and such others afforded access to Residential Units pursuant to this Declaration) for the limited purpose, as



deemed reasonably necessary by the Association for performing the services under the rental program and carrying out their respective responsibilities under the Rental Agreements (or similar rental program agreements with any successor management company); provided, however, that all such activity shall be undertaken in a manner so as to minimize interference with any Owner's use of his property or the Common Properties.

16.15 Mortgagee Easements. There is hereby created an easement in favor of each Institutional Mortgagee or an agent of any Institutional Mortgagee for ingress and egress over, across and upon the Common Properties to a Residential Unit which shall then be encumbered by the lien of the mortgage, as well as to the Common Properties. The Association shall be deemed the agent for all future Institutional Mortgagees for the purpose of the creation of this easement.

16.16 Easement for Construction and Sales. Declarant (and its agents, realtors, salespersons, employees, contractors, subcontractors and suppliers) shall have an easement of ingress and egress over, under and across the Common Properties for construction purposes and to erect maintain, repair and replace, from time to time, signs on the Common Properties for the purposes of advertising and sale and/or lease of Residential Units or Lots and for the operation of any permitted enterprise within "PEACEFUL PALMS". In the event of such construction, portions of the Common Properties may be shut off from general access and use, and noise, dust and other disturbances will be likely. All Owners hereby agree that such disturbances have been accepted by them and they waive any and all claims or objections as a result of or in relation to such disturbances. No liability shall be assumed by Declarant by reason of the foregoing.

16.17 Extent of Easements. The rights and easements of enjoyment of the Common Properties created hereby shall be subject to the following:

A. The right of the Association reasonably to limit the number of guests and invitees of Owners using the Common Properties;

B. The right of the Association to suspend the rights and easements of enjoyment of any member during any time which any assessment remains unpaid, and for a period not to exceed sixty (60) days, for any infraction of its Rules and Regulations, it being understood that any suspension for either non-payment of any assessment or breach of any Rules and Regulations of the Association shall not constitute a waiver or discharge of the Owner's obligation to pay the assessment; provided, however, that the Association shall not suspend the right to use any roadways belonging to the Association; and provided, further, that the Association shall not suspend any rights and easements reserved herein by Owner or Declarant;

C. The right of the Association to place any reasonable restrictions upon the use of any roadways owned by the Association including but not limited to, the maximum and minimum speeds of vehicles using said roadways, and other traffic and parking regulations; and

D. The right of the title holder to give, dedicate or sell all or any portion of the Common Properties to any public agency, authority, or utility or private concern for such purposes and subject to such conditions as may be determined by such title holder.

## **ARTICLE XVII GENERAL PROVISIONS**

17.1 Constructive Notice and Acceptance. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Residential Unit or other portion of Angle r's Reef shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference hereto is contained herein, whether or not any

referenced hereto is contained in the instrument by which such person acquired an interest in such Residential Unit or other property within "PEACEFUL PALMS".

17.2 Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the Land and Residential Units in "PEACEFUL PALMS" and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration shall be recorded ("the Initial Term"), after which time said covenants shall be extended automatically for successive periods of ten (10) years, unless this Declaration shall be terminated at the end of the Initial Term or prior to a successive ten ( 10) year period with the consent of not less than seventy five (75%) percent of the Owners, in which event an instrument to this effect shall be recorded in the Public Records of Monroe County, Florida, subject, however, to Declarant's rights as set forth in this Declaration.

17.3 Amendments. This Declaration may be amended by Declarant unilaterally from time to time and at any time and without the joinder of any Owner: (a) to accomplish any of the purposes or objectives set forth in this Declaration; and/or (b) to correct any scrivener's errors. This Declaration also may be amended with the written consent of not less than sixty-seven percent (67%) of the Owners and the approval by Institutional Lenders holding at least sixty-seven percent (67%) of the mortgages on Residential Units in "PEACEFUL PALMS"; provided, however, that no amendment shall be enforceable against Declarant so long as Declarant owns any Lot or Residential Unit within "PEACEFUL PALMS", unless Declarant has consented in writing to such amendment. No amendment shall materially and adversely affect any provision granting easements or permitting encroachments or any provision concerning Institutional Lenders without a majority consent of all Institutional Lenders then having mortgages on Lots, or Residential Units. Any amendment proposed to this Declaration which would affect the surface water management system, conservation areas or water management portions of the common properties must be submitted to the South Florida Water Management District for a determination of whether the amendment necessitates a modification of the SFWMD permit. Each amendment shall be recorded in the Public Records of Monroe County, Florida.

17.4 Covenants Running with the Land. Anything herein to the contrary notwithstanding, the covenants, conditions, restrictions and easements of this Declaration shall be covenants running with the land . If any provision or application of this Declaration would prevent this Declaration from running with the land as aforesaid , such provision and/or application shall be judicially modified , if possible, to reflect the intent of such provision or application and then shall be enforced in a manner allowing the covenants, conditions, restrictions and easements to so run with the land. In the event that any such provision and/or application cannot be so modified, such provision and/or application shall be unenforceable and considered null and void in order that the paramount goal of the covenants, conditions , restrictions and easements hereof running with the land shall be achieved.

17.5 Enforcement: No Waiver. Any Owner, including the Declarant, and the Association shall have the right to enforce the provisions of this Declaration by any proceeding at law or in equity against any person(s) or entity(ies) as follows:

A. For violating or attempting to violate any covenant or restriction, either to restrain such violation, to recover damages or to enforce performance and against the applicable Lot and/or Residential Unit to enforce any lien created herein;

B. The result of every act or omission whereby any of the covenants contained in this Declaration or the By-Laws are violated in whole or in part is hereby declared to be and does constitute a

nuisance , and every remedy allowed by law or equity with respect to nuisances either public or private shall be applicable and may be exercised by Declarant, Association or Owners;

C. Remedies herein provided for breach of the covenants contained in this Declaration or the By-Laws shall be deemed cumulative, and none of such remedies shall be deemed exclusive;

D. The failure by Declarant, the Association or any Owner to enforce the provisions of this Declaration shall in no event be deemed a waiver of the right to do so thereafter;

E. Where litigation shall occur to enforce said provisions or to recover damages or to enforce any lien created herein, the prevailing party in such litigation shall be entitled to recover court costs and reasonable attorney's fees, including court costs and reasonable attorney's fees in any appellate proceeding; and

F. A breach of the covenants, conditions or restrictions contained in this Declaration or in the By-Laws shall not affect or impair the lien or charge of any mortgage made in good faith and for value on any Lot or Residential Unit; provided, however, that any subsequent Owner of such Lot or Residential Unit shall be bound by said covenants, whether such Owner's title was acquired by foreclosure sale or otherwise.

G. In the event the Developer and/or Association fails or refuses to perform its obligations hereunder and/or to enforce the Declaration, the Village of Islamorada shall have the right but not the obligation to enforce the terms and provisions of this Declaration by any procedure at law or in equity against the Developer, Association, and/or Owners, including the right to levy and enforce Assessments in connection with any such enforcement action. The expense of any litigation arising out of this Section shall be borne by the party against whom enforcement is sought provided such proceeding results in a finding that such person failed to perform its obligations hereunder and/or was in violation of the Declaration.

17.6 Severability. Invalidation of any portion of this Declaration by judgment, court order or statute shall in no way affect any other provisions which shall remain in full force and effect.


17.7 Gender and Plurals. The use in this Declaration of the male gender shall include the female and neuter, and the use of the singular shall include the plural and vice versa, as the context requires.

17.8 Notices. Any notice required to be sent hereunder shall be deemed to have been properly sent when delivered or mailed, postage prepaid, to the last known address of the Owner or other addressee on the records of the Association at the time of such mailing.

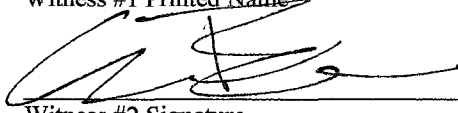
17.9 Limitation on Authority. The Association is specifically prohibited from, nor shall it assess or expend any funds for, representing Members in matters such as governmental issues involving land use/zoning or permitting; business matters such as the rental of Residential Units or dealings with the Management Company; or any claims against or collective dealings with Declarant.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed this 13<sup>th</sup> day of December, 2022.

Signed, sealed and delivered in the presence of us:

  
\_\_\_\_\_  
Witness #1 Signature

Abbie D'Attile  
\_\_\_\_\_  
Witness #1 Printed Name

  
\_\_\_\_\_  
Witness #2 Signature

Erik Bloom  
\_\_\_\_\_  
Witness #2 Printed Name

**SABALO DEVELOPMENT LLC, a Tennessee  
limited liability company**

By:   
\_\_\_\_\_  
Name: Baird Graham

Title: CEO

**State of Florida  
County of MONROE**

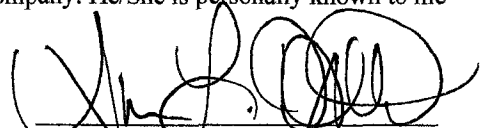
The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 13 day of December, 2022 by Baird Graham, as Manager of Sabalo Development LLC, a Tennessee limited liability company on behalf of the Limited Liability Company. He/She is personally known to me or has produced DL as identification.

**SEAL**

My Commission Expires:



**ABBIE L. D'ATTILE**  
Notary Public  
State of Florida  
Comm# HH267107  
Expires 5/23/2026

  
\_\_\_\_\_  
Notary Signature

Printed Notary Signature

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF "PEACEFUL PALMS"**

A portion of Lots 6 and 7, according to the MacDonald's Plat of Part of Government Lots 1, 2 and 3, in Section 23, Township 63 South Range 37 East, on Windley Island, Monroe County, Florida, and recorded in Plat Book 1, at Page 50, of the Public Records of Monroe County, Florida, more particularly described as follows:

From the Northwest corner of said Lot 7 on the Southerly right-of-way line of the Overseas Highway (formerly F.E.C. Railway) run Southerly on the Westerly line of said Lot 7, a distance of 348 feet to a point in the center line of paving of State Road S-905 (formerly Old Dixie Highway) and the point of beginning of the parcel hereinafter described; thence (Course 1) continue on a Southerly on last described course and its Southerly prolongation and along the dividing line between Lots 5 and 6, according to said Plat, a distance of 320.6 feet more or less to the mean high tide line on the shore of the Atlantic Ocean; thence (Course 2) meandering said mean high tide line in a Northeasterly direction to a point of intersection with a line which is 150 feet Easterly from (measured at right angles) and parallel to Course 1; thence (Course 3) Northerly on the said line which is 150 feet Easterly from and parallel to Course 1, a distance of 414 feet more or less to the said centerline of paving of State Road S-905; thence (Course 4) Southwesterly along said centerline of paving, a distance of 200.61 feet to the point of beginning, excepting from the above described parcel, the right-of-way of State Road S-905.

And

A parcel of submerged land in the Straits of Florida, in Section 23, Township 63 South, Range 37 East, Windley Key, Monroe County, Florida, more particularly described as follows:

Beginning at the mean high tide line on the shore of the Straits of Florida at the dividing line between Lots 5 and 6, as shown on "Plat of that Land of Government Lots 1, 2 and 3 of Section 23, Township 63 South, Range 37 East, being South of the Right of Way of the Florida East Coast Railway, as recorded in Plat Book 1, at Page 50, Public Records of Monroe County, Florida, said dividing line between Lots 5 and 6 having a bearing of South 25°24' East, and run South 31°54' East, a distance of 230 feet; thence North 44°36' East, a distance of 177.9 feet; thence North 36°24' West, a distance of 230 feet to said mean high tide line at line which is 150 feet easterly from and parallel to the said dividing line between Lots 5 and 6; thence Southwesterly meandering said mean high tide line, a distance of 160 feet, more or less, to the point of beginning.

Parcel Identification Number: 00093940-000000

Commonly known as 84745 Old Highway, Islamorada, Florida 33036

Exhibit "B"

ARTICLES OF INCORPORATION FOR PEACEFUL PALMS

# **Electronic Articles of Incorporation For**

N22000010511  
FILED  
September 13, 2022  
Sec. Of State  
tscott

PEACEFUL PALMS HOMEOWNER'S ASSOCIATION INC.

The undersigned incorporator, for the purpose of forming a Florida not-for-profit corporation, hereby adopts the following Articles of Incorporation:

## **Article I**

The name of the corporation is:

PEACEFUL PALMS HOMEOWNER'S ASSOCIATION INC.

## **Article II**

The principal place of business address:

84745 OLD HIGHWAY  
ISLAMORADA, FL. US 33036

The mailing address of the corporation is:

PO BOX 150645  
NASHVILLE, TN. US 37215

## **Article III**

The specific purpose for which this corporation is organized is:

HOMEOWNERS ASSOCIATION, INCLUDING BUT NOT LIMITED TO THE  
MAINTENANCE, PRESERVATION, ARCHITECTURAL CONTROL AND  
MANAGEMENT OF RESIDENTIAL LOTS AND COMMON AREAS WITHIN THE  
SUBDIVISION PEACEFUL PALMS.

## **Article IV**

The manner in which directors are elected or appointed is:

AS PROVIDED FOR IN THE BYLAWS.

## **Article V**

The name and Florida street address of the registered agent is:

LAW OFFICES OF ERIK S BLOOM PA  
100410 OVERSEAS HIGHWAY  
SUITE 203  
KEY LARGO, FL. 33037

I certify that I am familiar with and accept the responsibilities of  
registered agent.

Registered Agent Signature: ERIK BLOOM

N22000010511  
FILED  
September 13, 2022  
Sec. Of State  
tscott

## Article VI

The name and address of the incorporator is:

BAIRD GRAHAM  
2510 8TH AVENUE SOUTH  
  
NASHVILLE, TN 37204

Electronic Signature of Incorporator: BAIRD GRAHAM

I am the incorporator submitting these Articles of Incorporation and affirm that the facts stated herein are true. I am aware that false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S. I understand the requirement to file an annual report between January 1st and May 1st in the calendar year following formation of this corporation and every year thereafter to maintain "active" status.

## Article VII

The initial officer(s) and/or director(s) of the corporation is/are:

Title: P,D  
BAIRD GRAHAM  
2510 8TH AVENUE SOUTH  
NASHVILLE, TN. 32704 US

Title: VP,D  
CARLIN GRAHAM  
2510 8TH AVENUE SOUTH  
NASHVILLE, TN. 32704 US

Title: S,D  
LARRY MCCOY  
2510 8TH AVENUE SOUTH  
NASHVILLE, TN. 32704 US



## **EXHIBIT "C"**

### **BYLAWS OF PEACEFUL PALMS HOMEOWNER'S ASSOCIATION, INC.**

#### **A Homeowner's Association Pursuant to Chapter 720 of the Florida Statutes**

### **ARTICLE I PLAN OF OWNERSHIP**

1.01. Formation. "PEACEFUL PALMS", a Vacation Home Development, located at 84507 Overseas Highway, Islamorada, Monroe County, Florida, ("PEACEFUL PALMS") was created by the recording of the Declaration of Protective Covenants, Restrictions and Easements of Peaceful Palms, a Vacation Home Development in Official Records Book \_\_\_\_\_ at Page \_\_\_\_\_ of the Public Records of Monroe County, State of Florida, and any amendments thereto (the "Declaration"). Pursuant to the Declaration and Chapter 720 of the Florida Statutes, the Developers of "PEACEFUL PALMS" have caused to be formed the Peaceful Palms Homeowner's Association, Inc., a Florida Not for Profit Corporation (the "Association").

1.02. Applicability to Property. The provisions of these Bylaws are applicable to "PEACEFUL PALMS", which term includes the land, the buildings, and all other improvements on it, all easements, rights, and appurtenances belonging to them, and all other property, real, personal or mixed, intended for use in connection with them.

1.03. Applicability to Persons. All present and future owners, lessees, and mortgagees, together with their employees and any other person who use the facilities of "PEACEFUL PALMS" in any manner shall be subject to these Bylaws, the Declaration, the Deeds to the Units, and the Articles of Incorporation.

1.04. Acceptance. The acquisition or acceptance of possession of any Unit in "PEACEFUL PALMS" shall be sufficient to signify acceptance and ratification of the provisions of the instruments enumerated in Section 1.03 and an agreement to comply with the same.

1.05. Office. The offices of the Association shall be located at 82889 Overseas Hwy, Islamorada, FL 33036 or at such other office that the Association shall designate.

### **ARTICLE II OWNERS**

2.01. Membership. The affairs of Unit owners of "PEACEFUL PALMS" shall be administered and managed by an Association of owners organized as a Florida corporation not for profit, having the name PEACEFUL PALMS HOMEOWNER'S ASSOCIATION, INC., and referred to elsewhere in these Bylaws as the "Association." The Owner of each "PEACEFUL PALMS" Unit shall be a member of the PEACEFUL PALMS Homeowner's Association, Inc. In the case where a unit is owned by joint owners, a partnership, a corporation, a trust or another legal entity, such entity shall designate one person who is a co-owner, partner, stockholder, trustee or beneficiary of the entity to serve as the representative member of the entity in the Association.

2.02. Annual Meeting. The members of the Association shall hold an Annual Meeting on the date, at the place, and at the time as determined by the Board of Directors. There shall be an annual meeting

every calendar year, and, to the extent possible, no later than twelve (12) months after the last preceding annual meeting. The purpose of the meeting shall be, except as provided herein to the contrary, to elect Directors and to transact any other business authorized to be transacted by the members, or as stated in the notice of the meeting, sent to Unit owners in advance thereof.

2.03. Special Meetings. The President may, and shall if directed by resolution of the Board of Directors or by petition signed and presented to the Secretary by owners owning a total of at least twenty-five percent (25%) of the common interests, call a special meeting of the members of the Association. The notice of any special meeting shall state the time and place of the meeting and its purpose. No business shall be transacted at a special meeting other than that stated in the notice unless the owners of at least eighty percent (80%) of the common interests shall have consented.

2.04. Place of Meetings. Meetings of owners shall be conducted at the principal offices of the Association, or at such other suitable place convenient to the owners as may be designated by the Board of Directors.

2.05. Notice of Meetings. It shall be the duty of the Secretary to mail to each Unit Owner a notice of each annual or special meeting, stating the purpose, time and place of the meeting to each owner at least fourteen (14) days prior to such meeting. The mailing of the notice in the manner stated in this Section shall be considered notice served. Notice of any meeting at which assessments against owners are to be considered for any reason shall specifically state that assessments will be considered and the nature of any such assessments.

2.06. Quorum. At all meetings of Association members, thirty percent (30%) of the voting interests in the Association shall constitute a quorum to transact business. If a quorum is present at a meeting, the vote of those owners holding a majority of the votes who are present or represented shall be binding on all owners for all purposes.

2.07. Voting and Proxies. The owner of each Unit, or some person appointed by such owner to act as proxy for him, shall be entitled to cast the vote appurtenant to such Unit at all meetings. No one person may hold more than three (3) proxies. Voting shall be on a numerical basis. Each Residential Unit Owner shall be entitled to One (1) vote for each Residential Unit owned by him or it. Any proxy given shall be effective only for the specific meeting for which originally given and any lawful adjournments of it. In no event shall any proxy be valid for more than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the owner executing it. A proxy must be written, signed by the voting member generating the proxy, must state the time, date and place of the meeting for which it is given, and must be filed with the Secretary before the appointed time of the meeting, or before the meeting is adjourned.

2.08. Minutes. The Secretary shall take minutes at all meetings, and he shall make copies of them available for inspection at the offices of the Association at all reasonable times by owners and members of the Board of Directors.

2.09. Title to PEACEFUL PALMS Units. Title to PEACEFUL PALMS Units may be acquired and held in the name of an individual, in the names of two or more persons as joint tenants, tenants in common, or any other joint estate recognized under Florida law, or in the name of a corporation, a partnership or a fiduciary. When ownership of a Unit is vested in more than one person, or in a partnership, all of the persons or partners shall designate one of them to vote at the meetings of owners. When ownership of a Unit is vested in a corporation, the corporation shall designate one of its officers to vote at the meetings of its owners. The designation of a representative shall be made in writing when the Unit

is acquired and filed with the Secretary of the Board . Any change in designation must be in writing and delivered to the Secretary prior to taking effect.

### **ARTICLE III BOARD OF DIRECTORS**

3.01. The Association and Board of Directors . All power and authority of the Association shall be exercised through its Board of Directors.

3.02. Composition of Board of Directors. Members of the Board of Directors shall be elected by the owners in accordance with the following procedures:

3.02.1 Membership. The affairs of the Association shall be managed by a Board of not less than three (3) nor more than five (5) Directors. The exact number of Directors shall be determined from time to time upon majority vote of the membership. All directors shall be Unit Owners, or, in the case of partnership Unit owners, shall be partners in such partnerships, or in the case of corporate Unit Owners, shall be directors or officers of such corporation, or in the case of fiduciary Unit Owners, shall be the fiduciaries or the directors or officers a corporate fiduciary. No director shall continue to serve on the Board after he ceases to be a Unit owner or an interested party in a Unit owned as specified in the preceding sentence.

3.02.2. Election of Directors. Election of Directors shall be conducted in the following manner:

- (a) Election of Directors shall be held at the annual Unit Owners' meeting.
- (b) Not less than thirty (30) days before a scheduled election, the Association shall mail or deliver, whether by separate Association mailing or included in another Association mailing or delivery, including regularly published newsletters , to each Unit Owner entitled to vote, a first notice of the date of the election.
- (c) The election shall be decided by a plurality of those votes cast. There shall be no quorum requirement; however, at least twenty percent (20%) of the eligible voters must cast a ballot in order to have a valid election of members of the Board of Directors. No Unit Owner shall permit any other person to vote his or her ballot and any such ballot and any improperly cast ballot shall be deemed invalid. This regular election shall occur on the date of the annual meeting. Newly elected Directors shall take office immediately upon the adjournment of the annual and election meetings.
- (d) Notwithstanding the foregoing, an election and balloting are not required unless more candidates are nominated than vacancies exist on the Board to be filled. In that event, the Association shall announce the new Directors at the annual meeting, and all candidates take office as Directors immediately following the adjournment of the annual meeting.
- (e) In the event that the membership fills vacancies after recall of a board member, then the election of directors to fill the vacancy shall be governed by the procedures set forth in the applicable administrative rules.
- (f) The election shall be by written, secret ballot and by plurality of votes cast. Each person voting shall be entitled to cast his votes for each of as many nominees as there are vacancies to be filled.

3.03. Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association, and may do all such acts and things as are not by law, by the Declaration, or by these Bylaws prohibited or directed to be exercised and done by the Owners. The powers and duties to be exercised by the Board of Directors shall include, without limitation, the following:

- (a) The maintenance , repair, replacement, cleaning, and sanitation of the common elements;

- (b) The determination, assessment, and collection of funds for common expense and payment of such expenses as set forth in Article V below;
- (c) The adoption, distribution, amendment, and enforcement of regulations governing the use and operation of "PEACEFUL PALMS" and the use of the common elements, subject to the power of owners to change any such regulations by such a majority as the Declaration may prescribe;
- (d) The procurement and maintenance of insurance as hereinafter provided;
- (e) The maintenance of accounting records, in accordance with law and generally accepted accounting principles, which records shall be made available for inspection by owners and mortgagees at all reasonable times;
- (f) The authorization and prosecution, in the name of the Association, of any and all actions and proceedings deemed necessary or appropriate in furtherance of the interest of the Association generally, including suits to foreclose liens for nonpayment of assessments or to recover money judgments for unpaid assessments;
- (g) The making of any and all contracts deemed necessary or appropriate furtherance of the interest of owners generally;
- (h) The employment of personnel deemed necessary or appropriate for the maintenance and operation of the property and the common elements;
- (i) The establishment of bank accounts in the name of the Association, and the designation of signatories for drawing on such accounts ;
- (j) The purchase, lease, or acquisition in the name of the Board of Directors or designee, corporate or otherwise, on behalf of the owners of all Units offered for sale, lease, surrender by their owners to the Board of Directors ;
- (k) The purchase of Units at foreclosure or other judicial sale in the name of the Board of Directors or its designee, corporate or otherwise, on behalf of all owners;
- (l) The sale, lease, sublease or mortgaging of Units acquired by the Board Directors or its designee, corporate or otherwise, on behalf of all owners;
- (m) The organizing of corporations to act as designees of the Board of Directors acquiring title to or leasing Units on behalf of all owners;
- (n) The making of contracts for repairs of and additions and improvements to the property, and for repairs to and restoration of the property in accordance with the provisions of these Bylaws and the Declaration, in the event of damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;
- (o) The acquisition or making of contracts for the acquisition of leasehold, freehold or other possessory or use interest in lands and facilities, which are intended to provide for the benefit of the owners. If such an acquisition is authorized by a supplement to these Bylaws, duly recorded, the expense of replacing the property so acquired shall be treated as a limited common expense and shall be assessed against such owners as have consented to assume the same in proportion to their respective interests in the common elements, or in such other proportion as they may have unanimously consented to;

(p) The employment of a managing agent or manager at such reasonable compensation and to perform such duties as the Board of Directors may authorize; provided that the Board of Directors shall not delegate to any such managing agent or manager any of the powers enumerated in Subsections 2.0J(c), 2.0J(g), 2.0J(k), 2.03(1) and 2.0J(m) of this Section, nor may it have the power to determine and assess common charges as provided in Subsection 2.0J(b) of this section; and

(q) The appointment of the members of the Architectural Control Committee as provided under the Declaration.

3.04. Terms of Office. The terms of office of Board members shall be fixed as two (2) year terms. Board members shall hold office until their successors have been elected and conducted their first meeting. There shall be no limit on the number of terms a Board member may serve.

3.05. Vacancies. Vacancies on the Board of Directors caused by any reason other than the removal of a member by vote of the owners shall be filled by the affirmative vote of the majority of the remaining Board members, even though they may constitute less than a quorum, or by the sole remaining director. Each person so shall hold office until a successor is elected at the next annual meeting of owners.

3.06. Regular Meetings. Regular meetings shall occur at such times and places determined by the Board, except that the Board shall meet at least once each calendar year, and no more than twelve months shall elapse between each meeting of the Board. Notice of each regular meeting of the Board of Directors shall be given to each Board member personally, or by mail, telephone, or telegraph, at least fourteen (14) days prior to the date set for such meeting.

3.07. Meetings at which Assessments are Established. An assessment may not be levied at a Board meeting unless a written notice is mailed to each Unit owner thirty (30) days prior to such meeting. The notice of the meeting must include a statement that assessments will be considered and the nature of the assessments.

3.08. Meetings Open to Owners. All meetings of the Board of Directors shall be open to owners.

Notice of each meeting will be posted at the Association office at least forty-eight (48) hours before the meeting, except in the case of emergency meetings.

3.09. Waiver of Notice. Any Board member may at any time waive notice of any meeting in writing, and any such written waiver shall be deemed equivalent to the giving of the notice required by these Bylaws. Attendance of any Board meeting by a member shall constitute a waiver by him of notice of the time and place thereof. If all Board members are present at any meeting of the Board, no notice shall be required, and any business may be transacted at any such meeting.

3.10. Quorum of Directors. At all meetings of the Board of Directors, a majority of the board shall constitute a quorum for the transaction of business, and the acts of a majority of members present at a meeting at which a quorum is present shall constitute the acts of the Board. If at any meeting of the board of Directors there be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting where a quorum is present, any business, which might have been transacted at the meeting as originally called, may be transacted without further notice.

3.11. Minutes. Minutes shall be taken at all meetings of the Board of Directors. Copies of the minutes shall be available for inspection by owners and Board members at the offices of the Association at all reasonable times. The Association shall retain these minutes for a period of not less than seven (7) years.

3.12. Fidelity Bonds. The Board of Directors shall require that all officers and employees of the Association having access to Association funds give adequate fidelity bonds. The premiums on such bonds shall be a common expense of the Association.

3.13. Compensation. No member of the Board of Directors shall receive compensation for acting as such. Nothing in these Bylaws shall be construed to preclude any Board member from serving the Association or the Board in any other capacity and receiving compensation therefor.

3.14. Liability of Board Members. Members of the Board of Directors shall not be liable to owners for mistakes in judgment, for negligence, or otherwise, other than for their own willful misconduct or bad faith. Nor shall members of the Board be personally liable with respect to any contract entered by them on behalf of the Association, and owners shall indemnify the Board and each member of it for all liability to third parties arising out of contracts made by the Board for the Association. Such indemnification shall not extend to any contract made in bad faith or contrary to the Declaration or these Bylaws. The liability of each owner arising out of any contract made by the Board of Directors or out of indemnification of the members of the Board shall be in the same proportion of the total liability that the liability of such owner for payment of the common expenses bears to the total liabilities of all the owners or such common expenses.

#### **ARTICLE IV OFFICERS**

4.01. Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board of Directors. The Board of Directors may appoint one or more of the owners as an Assistant Vice President, an Assistant Treasurer, an Assistant Secretary, and such other officers as it in its judgment may deem necessary.

4.02. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at its annual meeting, and shall hold office at the pleasure of the Board.

4.03. Removal of Officers. On the affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, with or without cause, and his successor may be elected at any regular meeting of the Board, or at any special meeting of the Board called for that purpose.

4.04. President. The President shall be the chief executive officer for the Association. He shall preside at all meetings of the Board of Directors and of owners. He shall have all general powers and duties that are incident to the office of President of a Florida corporation not for profit including, without limitation, the power to appoint committees from among the owners from time to time, as he may deem appropriate, in order to assist in conducting the affairs of the Association.

4.05. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as the Board of Directors may give him from time to time.

4.06. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and of owners. He shall have charge of such books and papers as the Board of Directors may determine, and shall, in general, perform all the duties incident to the office of Secretary of a Florida corporation not for profit.

4.07. Treasurer. The Treasurer shall have responsibility for the funds and securities of the Association, for keeping full and accurate accounts showing all receipts and disbursements, and for the preparation of all necessary financial statements. He shall be responsible for the deposit of all depositories as the Board may designate from time to time, and shall in general perform all duties incident to the office of Treasurer of a Florida corporation not for profit.

4.08. Compensation. No officer shall receive any compensation from the Association for acting as such, provided that nothing in this Section shall be construed to preclude any officer from serving the Association, in any other capacity, and receiving compensation for his services.

#### **ARTICLE V OPERATION OF ASSOCIATION PROPERTY**

5.01. Annual Budget. Each year the Board of Directors shall prepare a proposed budget of common expenses for the Association. This budget shall include projections of common expenses, common revenues, including those from sources other than assessments, the amount of common charges required to meet any excess of the former over the latter, and an allocation and assessment of such common charges to each owner in proportion to his liability for those common charges as prescribed by the Declaration. As used in these Bylaws "common expenses" or "common charges" shall be defined as expenses or charges for which owners are proportionately liable and without limitation, shall include the following:

- (a) All expenses of administration, maintenance, repair, and replacement of the common elements;
- (b) Insurance premiums on all policies of insurance obtained by the Board of Directors, managing agent, or manager, as the case may be, pursuant to Sections 5.16 and 5.17;
- (c) Working capital reserve;
- (d) General operating reserve;
- (e) Repair and replacement reserve;
- (f) Reserve for deficits accrued in prior years;
- (g) Reserve for acquisition or lease of Units whose owners have elected to sell or lease the same, or which become available at foreclosure or other judicial sale;
- (h) Utility rates for water and gas, and related sewer rents;
- (i) Utility rates for electricity serving the common elements, which shall be separately metered;
- (j) All other and further amounts that the owners may agree upon or that the Board of Directors may deem necessary or appropriate for the operation, administration or maintenance of the Association and "PEACEFUL PALMS";
- (k) Ad valorem property taxes that are levied directly against the Association rather than to the Unit Owners; and
- (l) All other and further amounts designated as common expenses by the Declaration, by these Bylaws, or by law. In preparing the proposed budget, the Board shall determine which portion of the proposed expenses associated with the common properties in general, and which portion of for the common properties associated primarily with the docking units.

5.02. Budget Approval. A copy of the proposed budget will be mailed to each owner not less than thirty (30) days prior to the meeting at which the budget will be considered by the Board, together with a notice

of the time and place of that meeting. A final budget of common expenses will be adopted by the Board at such meeting, subject to the rights of the owners provided by law in the case of any budget requiring an assessment in any amount exceeding one hundred fifteen (115) percent of the assessments for the preceding year. Each owner will be advised in writing of the amount payable by him during the following year. The meeting shall be open to the owners. If the adopted budget requires an assessment of the owners in any fiscal or calendar year exceeding one hundred fifteen (115) percent of the assessments for the preceding year, the Board upon written application of ten (10) percent of the owners to the Board shall convene a special meeting of the owners within thirty (30) days, upon not fewer than ten (10) days written notice to each owner. At the special meeting, the owners shall consider and enact a budget. The adoption of the budget shall require a vote of a majority of all votes entitled to be cast. The Board of Directors may propose a budget to the owners at a meeting of members or in writing, and if the budget is approved by them at the meeting or by a majority of all of them in writing, the budget shall be adopted.

5.03. **Assessment of Common Expenses.** Upon final approval of the budget, each Residential Unit owner will be assessed an equal share of the total Common Expenses associated with the common properties in general for each Residential Unit owned, and each Docking Unit owner will be assessed an equal share of the total Common Expenses associated with the common properties associated primarily with the Docking Units for each Docking Unit owned.

5.04. **Collection of Assessments.** The Board of Directors shall, by suitable written notice, assess common charges in advance against owners at monthly intervals during each year. Each such assessment shall cover the succeeding month. If any installment remains unpaid for more than ten (10) days from the date due, the Board shall take appropriate action to collect it.

5.05. **Common Surplus.** If in any taxable year the net income of the Association from assessments and all sources other than casualty insurance proceeds and other nonrecurring items exceeds the sum of (a) total common expenses for which payment has been made or liability incurred with the taxable year, and (b) reasonable reserves for common expenses and other liabilities in the succeeding taxable year as may be determined by the Board of Directors, such excess shall be retained and added to the capital reserves of the Association.

5.06. **Liability for Assessments.** All owners are obligated to pay the common charges assessed by the Board of Directors at the intervals stated in these Bylaws, except for the Developer acting pursuant to the authority of Florida Statute 720.308. No owner may be relieved of liability for any assessment for common charges by waiver of the use or enjoyment of any of the common elements or by abandonment of his Unit. No owner shall be liable for any assessment of common charges or for the sale, transfer, or other conveyance by him of such Unit carried out in accordance with Section 7.03 of these Bylaws. Moreover, any owner of a Unit which is free and clear of all liens and encumbrances other than a first mortgage and the statutory lien for unpaid common charges may, subject to the requirements of these Bylaws, convey it to the Association or its designee, corporate or otherwise, as grantee for all other owners, and such conveyance shall relieve the owner of liability for any common charges assessed thereafter. Upon the voluntary conveyance of any Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments of the latter for his share of common expenses up to the time of the conveyance. The grantor shall be liable over to the grantee for any amounts paid by the latter. Any such grantee or any mortgagee shall be entitled to a certificate from the Board of Directors or the managing agent or manager, as the case may be, stating the amount of unpaid assessments pertaining to such Unit within ten (10) days after he shall have requested it. In that event, any person other than the grantor shall be entitled to act in reliance on such certificate and shall not be liable for any amounts exceeding the amount stated in it. A



mortgagee or other purchaser of a Unit at a foreclosure sale shall be liable for nonpayment of any common charges as set forth in the Declaration.

5.07. Default in Payment of Common Charges. In the event an owner does not pay to the Board of Directors the common charges assessed to his Unit within ten (10) days of the date payment is due, such owner shall be deemed in default, and shall be obligated to pay interest at the highest legal rate on such common charges from the due date, together with all expenses, including reasonable attorneys' fees, incurred by the Board of Directors in any proceeding brought to collect the same, and the Board of Directors shall be empowered to declare and foreclose a lien for nonpayment of such charges.

5.08. Foreclosure of Liens for Unpaid Common Charges. It shall be the right and duty of the Board of Directors to recover unpaid common charges, together with interest on them and expenses of any action, including reasonable attorneys' fees, to recover such charges from any owner, or by foreclosure of any lien on any Unit in respect to which he has defaulted. Any unpaid common expenses remaining uncollectible for more than thirty (30) days after such foreclosure sale may be assessed by the Board of Directors as common expenses to be collected from all owners, including the purchaser who acquires title at the sale, his successors and assigns. The Board, acting for all owners, shall have the power to bid on and purchase any Unit offered for sale at a foreclosure sale, and to acquire, hold, lease, mortgage, convey, or otherwise deal with the same. An action to recover a money judgment for unpaid common charges shall be maintainable without foreclosing or waiving the lien securing the charges, and an action to foreclose shall lie notwithstanding that an action to recover a money judgment may be pending.

5.09. Maintenance and Repair. Every owner shall promptly perform all maintenance and repair work within his own unit, which if omitted, would affect any common element, any portion of the property belonging to other owners, or the Association as a whole. Every owner shall be responsible for all damages and liabilities that any failure to repair or maintain may engender. All maintenance, repairs, and replacements to the common elements, whether located inside or outside individual units shall be the responsibility of the Board of Directors and shall be charged to all alike as common expenses unless such maintenance, repairs, or replacements are necessitated by the negligence or misconduct of one or more

individual owners, in which case they shall be the responsibility of, and shall be charged to such individual owners, who shall be answerable for them. Each owner shall be responsible for and reimburse the Association for any expenditures incurred in repairing or replacing any common element damaged through his fault.

5.10. Restrictions Upon the Uses of Units. The use of the units and common elements shall be subject to the restrictions imposed by the Declaration, these Bylaws, and Regulations to be promulgated and amended from time to time by the Board of Directors with the approval of a majority of the owners. Such restrictions shall include, without limitation, the following:

- (a) Owners shall take extreme care to act in accordance with all the requirements of all applicable laws, rules and regulations relating to the use of real property promulgated by any division of government or government agency having jurisdiction.
- (b) Throwing refuse outside the receptacles provided for that purpose shall be prohibited.
- (c) No owner or lessee shall install wiring for any electrical or mechanical equipment of any description on the outside of the building or so as to protrude to the outside of the building other than as the Board of Directors may prescribe.

(d) Owners shall not do or cause to be done anything in their units that would endanger the structural soundness of any portion of "PEACEFUL PALMS" or impair any easement or right appurtenant to it or affect the common elements without the unanimous consent of all owners who might be affected.

(e) Owners shall not permit or suffer any condition or thing in their units that would increase the rate of fire insurance thereon or on the "PEACEFUL PALMS" as a whole.

(f) No immoral, improper, offensive, or unlawful uses shall be made of the "PEACEFUL PALMS" or any portion of it, and the owner of each Unit, at his own expense, shall comply with and fully satisfy all city, county, state and federal laws, statutes, ordinances, regulations, orders or requirements affecting his Unit.

5.11 . Rules and Regulations. The Board of Directors shall provide copies of all Regulations to each owner before the Regulations take effect.

5.12. Modifications by Owners. No owner shall make any structural addition or alteration to his unit without the prior written consent of the Board of Directors. The Board shall answer any request by any owner for approval of a proposed addition or alteration to his unit within thirty (30) days after receiving it, and its failure to do so within that interval shall constitute consent. Any application to any governmental authority for a permit to make any addition or alteration to any unit shall be reviewed prior to filing by the Board of Directors.

5.13. Right of Access to Units. The Association shall have, and through its manager, agent, or other person or persons authorized by the Board of Directors shall exercise, a right of access to each unit from time to time during reasonable hours in order to maintain, repair, or replace any common elements in them or accessible from them, or to make repairs necessary to prevent damage to common elements or to any other unit or units, or to correct any condition in violation of any secured by any Unit. Requests for access shall be made in advance and shall be set for times convenient to the owner. Notwithstanding the preceding sentence, in the event of emergency, access shall be immediate, and shall operate regardless of whether the owner or his lessee is present.

5.14. Use of Common Elements. Owners shall not place or cause to be placed in the walkways or other common elements any furniture, fixtures, displays or objects of any description without the written consent of the Board.

5.15. Modifications by Board of Directors. Any additions, repairs or alteration in or to the common elements costing less than the balance in an Association contingency fund or capital reserve account may be made by the Board of Directors without approval of owners or mortgagees, and the costs shall be deemed to be common expenses. Whenever in the judgment of the Board of Directors the common elements require additions, repairs or alterations costing in excess of the amount in any contingency fund or capital reserve account, the making of such additions, repairs and alterations shall require approval by the owners of a majority of the Units. After such approval has been obtained, the Board shall proceed with the additions, repairs or alteration, the costs of which shall be deemed common expenses.

5.16. Repair or Reconstruction. In the event of any damage to or destruction of any improvements on the Association property or any portion of it, or any of the common elements or any portions of them required by the Declaration, these Bylaws, or by law to be insured by the Association, such improvements including common elements and individual units, but excluding furniture, decoration, ornaments and equipment installed or placed in them by owners, shall be promptly repaired and restored by the Board of Directors using the proceeds of such insurance. If such proceeds are inadequate to cover the cost of such repair and restoration, owners shall be assessed on an equitable basis according to the benefit derived by

them from such repair and restoration. If the proceeds of such insurance shall be inadequate by a substantial amount to cover the estimated cost of repair and restoration of an essential improvement or common element, or if such damage shall constitute the substantially total destruction of the Association property or of one or more buildings comprising it, or if those owners entitled to exercise seventy-five (75) percent or more of the total voting powers of those owners directly affected by such damage or destruction shall determine not to repair or restore the property, the Board of Directors shall realize the salvage value of the portion of the Association property damaged or destroyed, by sale or otherwise, and shall collect the proceeds of any insurance. Thereupon the net proceeds of such sale or other disposition of the property, together with removal of all debris and the restoration of the land to level grade, if appropriate, shall be considered one fund and shall be divided among owners directly affected by such damage or destruction in proportion to their undivided ownership interests in the common elements. Any liens or encumbrances on any affected Unit shall be relegated to the interest of its owner in the fund.

5.17. **Fire, Flood and Extended Coverage Insurance.** The Board of Directors or the managing agent or manager, as the case may be, shall obtain and maintain in effect insurance for the loss of the common properties by fire and other casualties normally covered under broad-form fire and extended coverage insurance as written in Florida. The insurance shall cover all common elements, all structural portions of the Association property, but it shall not cover furniture, fixtures, decoration, equipment or the like installed or placed therein by owners. The insurance shall be written for an amount satisfactory to mortgagees holding first mortgages on the common properties, but in any event not less than an amount which would cause the Association to become a co-insurer. The premiums for such insurance shall be a common expense defrayed by periodic assessments levied by the Board of Directors. Extended coverage shall include windstorm insurance and flood insurance, as well as law and ordinance coverage. Each Unit owner shall be required to maintain their own policies of insurance covering damage or loss to their respective units by fire and other casualties normally covered under broad-form fire and extended coverage insurance as written in Florida. Extended coverage shall include windstorm insurance and flood insurance, as well as law and ordinance coverage. The amount of such coverage shall be the full insurable value of the unit. In the event the Unit owner fails to secure and maintain such coverage, the Association, may, but is not obligated to, secure and maintain such coverage of the unit. In the event such coverage is secured and maintained by the Association, all costs incurred, including an administrative fee of \$250.00, shall be assessed against the owner of the Unit as a Special Assessment.

5.18. **Liability Insurance.** The Board of Directors or the manager or managing agent, as the case may be, shall obtain and maintain in effect insurance from liability for personal injury or death, and for damage to property arising from accidents occurring within the common elements for amounts satisfactory to mortgagees holding first mortgages on one or more Units, as determined by the Board of Directors. The premiums for such insurance shall be a common expense.

5.19. **Rights of Owners to Insure Units.** Any insurance obtained or maintained by the Board of Directors, managing agent, or manager, as the case may be, shall not relieve owners of the obligation to obtain insurance for their respective units, customers and invitees.

5.20. **Abatement of Violations.** A violation of any provision of the Declaration, of the deed to any Unit, of these Bylaws, or of any Regulation promulgated hereunder shall empower the Board of Directors, acting for all owners, in addition to any other rights enumerated in these Bylaws, to enter any unit where such violation exists and remove at the expense of the defaulting owner any thing or condition constituting such violation, and the Board shall not be deemed guilty of trespass in so doing. In addition, such a violation shall empower the Board to sue for an injunction to abate the violation, for damages, or other appropriate legal remedies. In addition, the Board may, for any violation, (1) levy reasonable fines, not to exceed

\$100.00 per violation, against any Unit owner or their tenant, invitee or guest, and/or (2) suspend, for a reasonable period of time, the rights of a Unit owner or their tenant, invitee or guest, or both, to use common areas and facilities.

5.21. Restricted Access to "PEACEFUL PALMS". PEACEFUL PALMS shall be a gated community, and access thereto shall be limited to Unit owners and their tenants, and their guests and invitees.

#### **ARTICLE VI MORTGAGES**

6.01. Notice of Mortgage. An owner who mortgages his Unit shall notify the manager, managing agent, or Secretary of the Association of the name and address of his mortgagee within thirty (30) days after he shall have executed it. The Secretary shall maintain such information in a registered titled "Mortgagees of Units."

6.02. Payment of Assessments. No owner shall be permitted to convey, mortgage, pledge, sell, or lease his Unit unless and until he shall have paid in full to the Board of Directors all unpaid charges assessed on it, and until he shall have satisfied all unpaid liens on it other than mortgage liens.

6.03. Notice of Unpaid Assessments. On being requested to do so, the Secretary of the Association shall advise the mortgagee of any Unit of any unpaid assessments due from its owner.

6.04. Notice of Default. Upon giving notice to an owner of a default, whether in payment of common charges otherwise, the Board of Directors shall send a copy of such notice to each holder of a mortgage secured by that Unit whose name and address appears in the register titled "Mortgagees of Units."

6.05. Inspection of Accounts. The owners and mortgagees of Units shall be permitted to inspect the books of account of the Association at reasonable times during business hours.

#### **ARTICLE VII. SALES AND LEASES OF UNITS**

7.01. Compliance with Article. An owner of a unit may sell or lease it or any interest in it in the manner prescribed by the Declaration and these Bylaws.

7.02. Severance of Ownership. Any sale of a unit must include the sale of the undivided interest in the common elements appurtenant to it, interest in any other Units the Board of Directors may have acquired or the proceeds from the sale or lease of any such Units, and the interest of the seller in any other assets of the Association, referred to elsewhere in these Bylaws as the "appurtenant interest". No part of the appurtenant interest of any Unit may be sold, transferred, or otherwise disposed of unless with the sale, transfer, or other disposition of the Unit to which such interest is appurtenant, or with the sale, transfer, or other disposition of such part of appurtenant interests of all Units. Any deed, mortgage, or other instrument purporting to affect a Unit or any appurtenant interest without including all such interests shall be deemed to include the interest so omitted, it being the intent of these Bylaws to prevent any severance of combined ownership of any Unit from the interest appurtenant to it.

7.03. Notice of Transaction. Upon the acceptance of any bona fide offer to any transaction which may cause an alteration in the use of his Unit within the meaning of the Declaration, an owner shall give the Board of Directors a written notice of the details of the proposed transaction, together with other information as the Board may reasonably request. The giving of such notice shall constitute a warranty and representation by the owner to the Board of Directors that he believes the offer to be bona fide in all respects, and intends to accept it.

7.04. Certificate of Compliance. Any owner who has complies with the requirements of Section 7.03, or for whom those requirements have been waived, shall be given a certificate to the effect upon requesting it. The Secretary of the Association shall promptly execute and acknowledge the certificate of termination or waiver, which shall then be binding on the Board of Directors and the owners in favor of all persons relying upon it in bona fide.

7.05. Financing the Acquisition of Units by Association. The acquisition of Units by the Association may be financed from any acquisition reserve, working capital, or common charges in the hands of the Board of Directors. If such funds are inadequate, the Board of Directors may declare an assessment upon owners in proportion to their ownership of the common elements as a common charge. The Board of Directors is also authorized to borrow money to finance the acquisition of Units, but no lien or encumbrance on any property other than the Unit to be acquired may be used to secure such an obligation.

7.06. Expenses. The Association may charge a fee not exceeding fifty dollars (\$50.00) only for expenditures reasonably made in connection with the sale, lease or other transfer of any Unit. Notwithstanding the preceding sentence, no charge shall be imposed in connection with the extension of any lease.

7.07. Vacation Rentals. Subject to approval from the City of Islamorada, Unit owners are entitled to rent their units on a vacation rental basis, provided they comply with this Section, the remainder of the Bylaws and the Declaration. The Association, through the Board of Directors, has the authority to contract with a rental management company to oversee and administer the vacation rental program. For a to be determined commission amount, the rental management company shall provide marketing, complete rental management, cleaning services, security and such other services as are necessary and appropriate for a vacation rental program. All unit owners desiring to offer vacation rentals (herein defined as rentals for periods of less than one month) at their Unit (1) must apply for and receive any vacation rental license(s) required by the Village of Islamorada and/or Monroe County, Florida and (2) must offer vacation rentals through participation in the vacation rental program. Vacation rentals are permitted with a minimum occupancy period of seven (7) days and must comply with all Village of Islamorada and/or Monroe County, Florida requirements.

A. Vacation rentals are permitted with a minimum occupancy period of seven (7) days.

B. No portion of the Property other than that designated and used by a Management Company, if any, will be used as a leasing or rental office, a service desk, including, without limitation, a hotel "front desk", in connection with the leasing or management of Units.

C. Each Unit that rents pursuant to this Section shall comply with the following at all times:

(1) No more than one motorized watercraft, including a jet ski or wave runner, shall be allowed at each vacation rental unit. The watercraft may be moored at either an existing on-site docking facility or stored on a trailer in an approved parking space.

(2) Vehicles, watercraft and trailers shall not be placed on the street or in yards. All vehicles, watercraft and boat trailers must be parked or stored off-street in parking spaces specifically designated and approved in the special vacation rental permit. One vehicle parking space shall be required per bedroom or efficiency unit and one boat trailer space per vacation rental unit.

(3) No boat docked at a vacation rental property shall be chartered to a person other than registered guests of the vacation rental unit or used for live-aboards, sleeping or overnight accommodations. In addition, recreation vehicles shall not be used for sleeping or overnight accommodations at the vacation rental unit.

- (4) Occupants shall be prohibited from making excessive or boisterous noise in or about any residential dwelling unit at all times. Noise, that is audible beyond the boundaries of the residential dwelling unit, shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m. weekdays and 11:00 p.m. and 9:00 a.m. on weekends.
- (5) All trash and debris on the vacation rental property must be kept in covered trash containers. Each vacation rental unit must be equipped with at least four covered trash containers for such purpose. Owners must post, and occupants must comply with, all trash and recycling schedules and requirements applicable to the vacation rental unit. Trash containers must not be placed by the street for pick-up until 6:00 p.m. the night before pick-up and must be removed from the area by the street by 6:00 p.m. the next day.
- (6) A tenant's agreement to the forgoing rules and regulations must be made a part of each and every lease under F.S. § 509.01 for any vacation rental unit subject to the provisions of this section. These vacation rental regulations governing tenant conduct and use of the vacation rental unit shall be prominently posted within each dwelling unit subject to the provisions of this section along with the warning that violations of any of the vacation rental regulations constitutes a violation of this Code subject to fines or punishable as a second degree misdemeanor and is also grounds for immediate termination of the lease and eviction from the leased premises and criminal penalties under F.S. § 509.151 ("defrauding an innkeeper"), F.S. § 509.141 ("ejection of undesirable guests"), F.S. § 509.142 ("conduct on premises) or F.S. § 509.143 ("disorderly conduct on premises, arrest").
- (7) The owner or agent shall require a lease to be executed with each vacation rental use of the property and maintain a guest and vehicle register listing all vacation rental occupants' names, home addresses, telephone numbers, vehicle license plate and watercraft registration numbers. Each lease and this register shall be kept by the vacation rental manager and available for inspection by county code enforcement personnel during business hours.
- (8) Vacation rental units must be registered, licensed and meet all applicable state requirements contained in F.S. ch. 212 (Florida Tax and Revenue Act) and F.S. ch. 509 (Public Lodging Establishments) as implemented by the Florida Administrative Code, as may be amended.
- (9) The vacation rental use must comply with all State of Florida Department of Health and State of Florida Department of Environmental Protection standards for wastewater treatment and disposal.
- (10) All vacation rental units shall have a vacation rental manager, who has been issued a vacation rental manager license by the planning department as provided for in subsection (h) of this section. The vacation rental manager shall reside within and be licensed for that section of the county (Upper, Middle, and Lower Keys) where the vacation rental unit is located and be available 24 hours per day, seven days a week for the purpose of promptly responding to complaints regarding conduct or behavior of vacation rental occupants or alleged violations of this section. Any change in the vacation rental manager shall require written notification to the planning department and notification by certified return mail to property owners within 300 feet of the subject dwelling.
- (11) Complaints to the vacation rental manager concerning violations by occupants of vacation rental units to this section shall be responded to within one hour. The neighbor who made the complaint shall be contacted by telephone or in person and informed as to the results of the actions taken by the manager. A record shall be kept of the complaint and the manager's response for a period of at least three months after the incident, which shall be available for inspection by the county code enforcement department during business hours.

(12) The name, address, and telephone number of the vacation rental manager, the telephone number of county code enforcement department and the number of the special vacation rental permit shall be posted and visible from the front property line of the vacation rental unit.

(13) The tenants' agreement with the rules of conduct shall be posted in a conspicuous location in each vacation rental unit.

Except as expressly set forth herein, the Association shall not implement any rule or regulation which unreasonably restricts or interferes with the ability of the Management Company to offer or operate its rental program for Residential Units and/or Docking Units at "PEACEFUL PALMS". Unit Owner's do NOT have the right or authority to lease a dock to Renters. All Dock rentals shall be managed and handled directly by the Association, or a Management Company chosen by the Association to allow for the orderly rental of Docks in a central system. Any and all fees that Renters pay for reserving and using a Dock shall be paid directly to the Association ("Dock Rental Fees") and all such Dock Rental Fees shall be used by the Association as Association Fees/Dues. Declarant reserves the right (and later the Association shall have the right) to set the price for all Dock Rentals charged to Renters. Unit Owner's will not be charged Dock Rental Fees for their personal use of the Docks (i.e. that don't involve Renters).

#### **ARTICLE VIII EMINENT DOMAIN**

8.01. Condemnation of Common Elements. If any portion of the common elements is taken, damaged, or destroyed by eminent domain, each owner shall be entitled to notice of such taking and to participate through the Association in the proceeding s incident to it. Any damages shall be for the taking, injury, or destruction as a whole, and shall be collected by the Board of Directors. If the owners of seventy- five (75) percent or more of the Units duly and promptly approve the restoration of the common elements, the Board of Directors shall contract for such restoration, and shall disburse the proceeds of the awards in appropriate progress payments to contractors engaged in such restoration. If the award is insufficient to defray the entire expense of restoration, the excess of such expense over such proceeds shall be treated as a common expense. In the event that the owners of seventy-five (75) percent or more of the Units do not duly and promptly approve the restoration of the common elements, the net proceeds shall be divided by the Board of Directors among all owners in proportion to their respective proportionate shares in the common surplus as stated in the Declaration, satisfying any liens upon each Unit out of the share otherwise payable to its owner in their order of priority.

8.02. Condemnation of Units. If all or any portion of any Unit other than the interest in the common elements appurtenant to them shall be taken, damaged or destroyed by eminent domain, each owner so affected shall be entitled to notice of such taking and to participate directly in the proceedings incident to it. Any damages shall be payable directly to such owner or owners.

#### **ARTICLE IX RECORDS**

The Board of Directors shall maintain detailed records of all their actions and those of the Association, including financial records and books of account of the Association, maintained in accordance with generally accepted accounting principles, and all records called for under Florida Statutes s. 720.303(4) . Such records shall include a chronological record of all receipts and disbursements. A separate account shall also be maintained for each Unit containing, among other things, the amount of each assessment on such Unit, the date the assessment is due, amounts paid on it, and the balance remaining due. Such records shall be maintained at the Association's office, and shall be made available to any interested party upon request as provided under Florida Statutes s. 720.303(5). The Board of Directors shall, within sixty (60)

days of the close of each fiscal year, prepare in an annual financial report as provided under Florida Statutes s. 720.303(7).

#### **ARTICLE X MISCELLANEOUS**

10.01. Notices. All notices to be sent to the Board of Directors shall be sent by registered mail in care of the manager or managing agent, or if there is none, to the office of the Board, or such other address as the Board may designate from time to time. All notices to be sent to any owner shall be sent by registered or certified mail to the owner at the owner's Unit or at such other address as he may have designated in writing to the Board of Directors. All notices to the mortgagees of Units shall be sent by registered or certified mail to their respective addresses as maintained by the Secretary in the register titled "Mortgagees of Units". All notices shall be deemed to be given when mailed.

10.02. Mandatory Non-Binding Arbitration. In the event of any disputes or controversies between owners which affect the operation of the Association or the use of any property in it, but whose resolution does not lie within the legal authority confided to the Board of Directors by either Association Act, the Declaration, or these Bylaws, the owners affected shall submit any such disputes or controversies to non-binding arbitration. The parties shall use either a certified mediator or arbitrator who is certified by the circuit court administrator to arbitrate cases in the Circuit Court for Monroe County, Florida or an arbitrator from the American Arbitration Association panel for commercial property disputes.

10.03. Waiver. No restriction, condition, or obligation in these Bylaws shall be deemed to be abrogated or waived due to any failure to enforce it, regardless of the number of occurrences of failure to enforce.

10.04. Invalidity. If any portion of these Bylaws is invalidated, such invalidity shall in no way impede or affect the validity, enforceability, or effect of the remaining portions.

10.05. Captions. Captions are inserted in these Bylaws solely for the convenience and reference of the reader and shall not be taken in any way to limit or circumscribe the scope of any portion of these Bylaws.

#### **ARTICLE XI TRANSITION OF ASSOCIATION CONTROL**

Notwithstanding anything contained herein to the contrary, "PEACEFUL PALMS", LLC (the "Developer"), shall have the right to retain control of the Association by being entitled to elect a majority of the members of the Board of Directors until up to three months after the Developer has conveyed 12 Units in PEACEFUL PALMS to purchasers. So long as the Developer holds at least three Units of "PEACEFUL PALMS" for sale in the ordinary course of business, the Developer shall be entitled to elect at least one member of the Board of Directors. At such time as other Unit owners are entitled to elect a majority of the members of the Board of Directors, the Developer shall deliver to the Association the documents set forth in Florida Statute s. 720.307. At all times which the Developer controls the Association, the Developer shall maintain all Association funds in a separate account, and shall not commingle such funds with the Developer's other funds.

#### **ARTICLE XII AMENDMENTS**

These Bylaws may be amended or supplemented by affirmative vote of seventy-five (75) percent or more of the voting interests in the Association at a meeting of owners duly called for such purposes. Any such amendment shall be recorded in the Official Records of Monroe County, Florida. No Article or Section of these Bylaws shall be revised or amended solely by reference to its caption or Article or Section number. Proposed amendments to these Bylaws shall quote the entire passage to be amended, together with any




language to be added by the amendment. The proposed amendment shall be presented by underlining all those portions to be added and lining through with hyphens all those to be deleted. If the proposed change is so extensive that the presentation of the proposed amendment in this manner would impede rather than augment an understanding of it, then a statement may be inserted immediately before it substantially to this effect: "Substantial rewording of Bylaws. See Article \_ \_ \_ Section \_ \_ \_ of the Bylaws for present wording." Nonmaterial errors or omissions in an amendment to the Bylaws shall not invalidate an otherwise duly promulgated amendment. Notwithstanding the foregoing, an amendment may not affect vested rights unless the record owner of the affected parcel and all record owners of lines on the affected parcels join in the execution of the amendment.

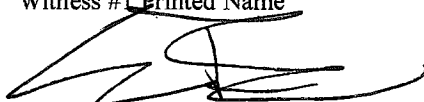
#### **ARTICLE XII CONFLICTS**

These Bylaws are intended to comply with the requirements of and are promulgated in accordance with Chapter 720 of the Florida Statutes, which govern Homeowner's Associations. To the extent that these Bylaws or any portions of them are so construed as to be inconsistent with the provisions of Chapter 720 or the Declaration, Chapter 720 or the Declaration, as the case may be, shall be controlling.

Signed, sealed and delivered in the presence of us:


  
\_\_\_\_\_  
Witness #1 Signature


Abbie D'Attile  
\_\_\_\_\_  
Witness #1 Printed Name

  
\_\_\_\_\_  
Witness #2 Signature

Erik Bloom  
\_\_\_\_\_  
Witness #2 Printed Name

**PEACEFUL PALMS HOMEOWNER'S  
ASSOCIATION INC., a Florida not for  
profit corporation**

By:   
\_\_\_\_\_  
Name: Baird Graham  
Title: President

By:   
\_\_\_\_\_  
Name: Larry McCoy  
Title: Secretary

**State of Florida  
County of MONROE**

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization  
this 13 day of December, 2022 by Baird Graham, as President and Larry McCoy, as Secretary of Peaceful Palms  
Homeowner's Association, Inc., a Florida not for profit corporation, on behalf of the Corporation. He/She is personally  
known to me or has produced DL as identification.

**SEAL**

My Commission Expires:



**ABBIE L. D'ATTILE**  
Notary Public  
State of Florida  
Comm# HH267107  
Expires 5/23/2026

  
\_\_\_\_\_  
Notary Signature

Printed Notary Signature

## **RULES AND REGULATIONS**

### **OF**

### **PEACEFUL PALMS**

1. Streets, sidewalks, and other common areas shall not be obstructed in any way or used for any purpose except as access to and from Units. Storage of any items in these areas are a potential fire or building code violation and is not permitted.

2. Nothing other than patio-type furniture and plants may be kept on patios, balconies, atriums, terraces and roof decks.

3. No linens, cloths, clothing, curtains, rugs, mops, or laundry of any kind, or other articles, shall be shaken or hung from any of the windows, doors or balconies, terraces, roof decks, patios or the like.

4. If Unit Owners, tenants, guests, or invitees leave any items in the streets, sidewalks, or other common areas, the Association may remove the same and discard or store them at the Unit Owner's expense. Repeated or serious violations may result in a fine.

5. No sign, advertisement, notice or other lettering shall be exhibited, inscribed, painted or affixed on the outside of a Residential Unit or on any part of the Common Elements without prior written consent of the Association. Additionally, no awning, canopy, screens, shutter or other projection shall be attached to or placed upon the outside walls or roof of the building unless approved by the Association. Notwithstanding the foregoing, the Developer, in the ordinary course of business, may place signs or other displays or advertising on any part of the Common Elements.

6. Neither the exterior of the Residential Units, including all appurtenances, nor any part of the Common Elements shall be painted, decorated or modified by any Residential Unit Owner or resident without the prior written consent of the Association, which consent may be withheld on purely aesthetic grounds within the sole discretion of the Association.

7. A Unit Owner shall not cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, patios, balconies or windows of the Residential Unit, nor shall such Unit Owner screen or otherwise enclose his connecting patio balcony, atrium, terrace or roof deck without the consent of the Association. Notwithstanding the foregoing, any Unit Owner may display one portable, removable United States flag in a respectful way, and, on Armed Forces Day, Memorial Day, Flag Day, Independence Day and Veterans day, may display in a respectful way portable, removable official flags, not larger than 4 ½ feet by 6 feet, that represent the United States Army, Navy, Air Force, Marine Corps or Coast Guard. No satellite dishes (greater than one meter in diameter) or antennas may be placed in a manner as to be seen from the exterior of building.

8. No Unit Owner may install or permit to be installed any window air conditioning unit in his Unit or in the Common Elements.

9. No radio or television installation may be permitted in a Unit which interferes with the television or radio reception of another Unit. Citizens band and ham radio installations are strictly prohibited. Unit owners may only install a satellite dish (no greater than one meter in diameter). The occupant is liable for the safety of the satellite dish.

10. Storage of any personal property in any area except your Unit is prohibited. Any personal property left in parking areas, on walkways, streets, sidewalks, or any area of the property not expressly designated for storage will be removed and discarded. Further, the owner/management assumes no responsibility or liability for items stored.

11. Bicycles must be stored inside the Unit not left in walkways, patios, lawns, sidewalks or in the street. The Association may, but is not obligated to, provide bicycle storage in designated areas. Skateboarding through the property is prohibited.

12. No door-to-door soliciting, including soliciting by Unit Owners, tenants, guests, or invitees is permitted within Peaceful Palms. Unit Owners must notify the Association immediately if they see anyone soliciting door-to-door within Peaceful Palms.

13. All Unit Owners, tenants, guests or invitees must observe the following rules between 10:00 p.m. and 9:00 a.m.:

- a. Unit Owners, tenants, guests and invitees shall not make or permit any disturbing noises, which, at the sole discretion of the Association, unreasonably interfere with the rights, comforts, or convenience of other Unit Owners
- b. Unit Owners, tenants, guests and invitees shall keep the volume of any radio, television, stereo, or musical instrument in their units sufficiently low at all times so as not to disturb other Unit Owners. The volume of noise that constitutes a violation of this rule shall be left at the sole discretion of the Association.
- c. Any violation of these noise rules and other Resident's right of quiet enjoyment, including repeated minor violations of these rules, is a direct violation and may result in a fine.

14. There shall not be kept in any Residential Unit or in any storage facility any inflammable, combustible or explosive fluid, material, chemical or substance, except for normal household use. The Association will not be responsible for loss of or damage to any property in the storage rooms.

15. Pets are allowed in Peaceful Palms; provided, however, that it is clearly understood that the keeping of a pet at Peaceful Palms is a conditional license subject to revocation. Lessees, tenants or guests are permitted to keep pets only in accordance with these rules. The maintaining of a pet in Peaceful Palms is subject to the following standards and guidelines:

- a. There shall be no more than two (2) household pets per unit. Pets must be registered with the Association.
- b. No aggressive dogs shall be allowed. The Association has the authority to require a Unit Owner or Renter to remove any aggressive dog or dog causing a disturbance. The Association also has the right to restrict certain breeds as needed.
- c. Pets shall not in any way disturb any other Residential Unit Owners and shall be kept on leashes of no more than six (6) feet long at all times or hand carried through the Common Elements of Peaceful Palms Property. Pets must be with their owners at all times.
- d. Pets are not allowed in the clubhouse or other recreational areas.

- e. There shall be no breeding or maintenance of household pets for commercial purposes.
  - f. Fish or caged domestic (household-type) birds may be kept in Units subject to these Rules and Regulations. No reptiles or wildlife may be kept in or about Peaceful Palms Property.
  - g. No pet shall be allowed on a balcony or terrace of a Unit when the Unit is not occupied unless the patio area is fenced so that the pet may not leave the Unit grounds.
  - h. All pet owners are required to pick up after their pets. Failure to clean up after your pet may result in a \$25.00 clean up fee.
16. If a Unit Owner finds it necessary to have authorized personnel unlock apartments after hours, they will be charged a fee of \$25.00, payable in check form at the time of entry. If the Unit Owners change or add locks on their Unit, they must give the Association a copy of the key(s). The Unit Owner may also request that the Association, for a fee, change or add locks on their Unit in which event the Association will retain a copy of the key(s).
17. If a Unit Owner loses the electronic opener for any security gate or security system, they will be charge a fee of \$50.00 to replace the same.
18. All motor vehicles – which includes automobiles, vans and trucks - are to be properly aligned in parking areas. This includes cars and vans. Boat, Jet Ski and trailer parking is only available on the property in designated areas. Commercial motor vehicles and commercial trucks may not be parked on the property. Campers, recreational vehicles, or motorhomes may not be parked on the property. Violators will be stickered and towed away and resident (s) will pay all fees incurred.
19. Repair and washing of motor vehicles is prohibited on the property. If it becomes evident that your car is leaking oil on our asphalt parking area, you will be asked to remove it as it is damaging the integrity of the space and creating an unsightly appearance within our community. You may also be assessed a fee for the cleanup of the oil leak.
20. Parking on the grass and curb areas is not permitted. Violators will be stickered and/or towed at the expense of the violator and an additional charge of \$ 100.00 will be assessed to the violator.
21. All motor vehicles parked on the premises must be operable and have valid current license plates. “Operable” means the vehicle must have air in the tires, have all major components intact, including windows and windshields, and be reasonably clean. Motor vehicles may not be used to store bulky personal items on a permanent basis. The determination of whether a vehicle is inoperable shall be within the discretion of management, however a motor vehicle will be automatically deemed to be inoperable if it is not “street legal.”
22. The association owner/management assumes no liability or responsibility for loss, damage or claims of any nature for any motor vehicle or personal property parked or stored by Unit Owners, their family members and guests.
23. All motor vehicles of any type must be registered with management including information on: make, model, year, tag number, and description.

24. Employees of the Association are not to be sent out of the building by Unit Owners for personal errands. The Board of Administration and/or its management agent shall be solely responsible for supervising employees of this Association.

25. The personal property of Unit Owners must be stored either in their respective Units, or (if applicable) assigned storage areas.

26. No Unit Owner shall make or permit any disruptive noises or noxious fumes in or about the Units and Peaceful Palms Property, or permit any conduct by any persons that will interfere with the rights, comforts, or conveniences of other Unit Owners.

27. A Unit Owner who plans to be absent during the hurricane season, must prepare his Unit prior to his departure by:

- a. Removing all furniture, plants and other objects from his patio, terrace, atrium, roof deck or balcony; and
- b. Designating a responsible firm or individual if other than the Association, to care for his Unit, should the Unit suffer hurricane damage, and furnishing the Association with the names of such firm or individual. Such firm or individual shall be subject to the approval of the Association.

28. No commercial or business purpose shall be conducted in any Unit; except for home offices. No Unit Owner may actively engage in solicitation for commercial purposes.

29. Before a Unit is to be occupied by guests in the absence of the Unit Owner, a written guest identification notice listing names and length of stay must be furnished to the Manager.

30. No Unit Owner or Occupant may alter, change or remove any furniture, furnishings or equipment in the Common Elements.

31. A Unit Owner shall be liable for the expense of any maintenance, repair, replacement or damage to the Common Elements rendered necessary by his or her acts or by those of any member of such Unit Owner's family or the guests, employees, agents or lessees of the Unit Owner or his family.

32. No Unit Owner or lessee shall invite in his absence any person not in residence to use Peaceful Palms facilities.

33. A Unit Owner seeking to make an alteration, addition or improvement to his Unit shall submit the plans and specifications for same to the Board of Directors whether or not the approval of the Board is required under the terms of the Declaration of Covenants and Restrictions or the Bylaws of the Association. Other than the Developer and as otherwise provided herein, Owners may not do any construction or renovation without the written approval of the Association. The Association may reasonably restrict the time and manner of construction, except as it relates to the Developer. Other than the Developer, Unit Owners must provide the Association with a \$500.00 security deposit prior to commencing construction or renovation. The owners must provide the Association with copies of proper permits, licenses, and insurance certificates before commencing with construction or renovations and must use only properly licensed workers.

34. Unit Owners may only perform construction or renovation work on Monday to Friday from 8:00 a.m. to 5:00 p.m. Unit Owners may not perform construction or renovation work on holidays or weekends.

35. A Unit Owner who causes damage to another Unit or to Common Elements as a result of his making an alteration, addition or improvement to his Unit shall be liable for damages to the Owner of such other Unit or to the Association as the case may be.

36. A Unit Owner is responsible for repairing plumbing problems, i.e. clogged drains, within their Units.

37. Park only in spaces marked for residents of Peaceful Palms. Advise guests and visitors to avoid reserved spaces, even for a few minutes, and to park in guest spaces. The Association reserves the right to tow any and all improperly parked vehicles. All costs associated with towing such vehicle will be paid by the owner of the towed vehicle.

38. The speed limit throughout the property is 10 miles per hour.

39. Unit Owners must make all minor repairs as needed and comply with the following maintenance requirements:

a. General Maintenance

- i. Regularly inspect bathroom fixtures to make certain that they are all properly sealed with bathroom grout in order to prevent damage to the walls, floors and ceilings of units on the lower floors.
- ii. Regularly inspect walls and ceilings to check for stains caused by water, filtration or humidity.
- iii. If you experience problems with your circuit breakers contact a licensed electrician.
- iv. If you feel a slight electric shock when touching an electrical appliance, unplug and repair the appliance.
- v. If your lights flash on and off or fluctuate in strength, contact a licensed electrician.

b. Plumbing Maintenance

- i. Regularly check the faucets and water valves for leaks.
- ii. Regularly make certain that there are no water leaks in the tub or sinks.
- iii. Clean any sediments which have collected in the water heater monthly or as recommended in the water heater's manual.

c. Air Conditioner and Heating Unit Maintenance

- i. Regularly change and/or clean the filters on the air conditioner and heating unit.

- ii. Service the units annually or as recommended in the unit's manual.
- iii. Maintain the thermostat at 78 degrees or cooler to minimize the likelihood of any mold developing in the Unit.

40. Recreation facilities may be reserved for private parties only through the Association. All reservations shall be on a first come, first served basis and all functions must conclude by 11:00 p.m.

41. Additional rules regarding recreational facilities and special amenities, if any, offered in Peaceful Palms will be posted on site or available at the management office.

42. Unless authorized by the Association, no Unit Owner may move into a Unit except on Monday through Friday from 9:00 a.m. to 7:00 p.m. and on Saturdays from 10:00 a.m. to 8:00 p.m. No moving vans larger than fifty (50) feet are permitted on the property.

43. Every Owner and occupant shall comply with these Rules and Regulations as set forth herein, any and all rules and regulations which from time to time may be adopted or amended, and the provisions of the Declaration, By-Laws and Articles of Incorporation or the Association, as amended from time to time. Failure of an Owner or occupant to so comply shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof. In addition to all other remedies, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner, his family, guests, invitees, lessees or employees, to comply with any covenant, restriction, rule or regulation herein or in the Declaration, Articles of Incorporation or By-laws, provided the following procedures are adhered to:

- a. Notice: The Association shall notify the Owner or occupant of the infraction or infractions. Included in the notice shall be a date and time of the next Board of Directors meeting at which time the Owner or occupant shall present reasons why penalties should not be imposed.
- b. Hearing: The non-compliance shall be presented to the Board of Directors after which the Board of Directors, and a committee or other Unit owners, shall hear reasons why penalties should not be imposed. A written decision of the Board and committee shall be submitted to the Owner or occupant by not later than twenty-one (21) days after the meeting.
- c. Fines: The Board of Directors may impose fines against the applicable Unit up to the maximum amount permitted by law from time to time.
- d. Violations: Each separate incident which is grounds for a fine shall be the basis of one separate fine. In the case of continuing violations, each continuation of same after a notice thereof is given shall be deemed a separate incident.
- e. Payment of Fines: Fines shall be paid not later than fifteen (15) days after notice of the imposition thereof.
- f. Application of Fines: All monies received from fines shall be allocated as directed by the Board of Directors.
- g. Non-exclusive Remedy: The fines shall not be construed to be exclusive and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; however, any penalty paid by the offending Owner or occupant shall be deducted



from or offset against any damages which the Association may otherwise be entitled to recover bylaw from such Owner or occupant.

44. These rules and regulations shall be cumulative with the covenants, conditions and restrictions set forth in the Declaration of Covenants and Restrictions, provided that the provisions of same shall control over these rules and regulations in the event of conflict or a doubt as to whether a specific practice activity is not permitted. These rules and regulations shall not apply to the Developer, nor its agents or employees and contractors, nor the Units owned by the Developer. All of these rules and regulations shall apply to all other Owners and occupants even if not specifically so stated in portions hereof. The Board of Directors shall be permitted (but not required) to grant relief to one or more Unit Owners from specific rules and regulations upon written request therefor and good cause shown in the sole opinion of the Board.

In the event of conflict between the provisions of these Rules and Regulations and the Bylaws of the Association or the Declaration of Covenants and Restrictions, the Bylaws shall supersede the Rules and Regulations and the Declaration of Covenants and Restrictions shall supersede both.