

**EXHIBIT “1”**

**AMENDED AND RESTATED  
DECLARATION OF CONDOMINIUM  
OF  
THE HAMMOCK AT PALM HARBOR A CONDOMINIUM**

**SUBSTANTIAL REWORDING OF DECLARATION -  
SEE CURRENT DECLARATION AND ITS AMENDMENTS FOR PRESENT TEXT**

**WHEREAS**, The Hammock at Palm Harbor, LLC, a Florida limited liability company, (hereinafter referred to as the “Declarant”) made, declared and established the Declaration of Condominium of The Hammock at Palm Harbor, A Condominium, which was recorded at Official Records Book 1819, Page 859 on June 3, 2011, in the Public Records of Flagler County, Florida (hereinafter the “Original Declaration”); and

**WHEREAS**, the Original Declaration was amended pursuant to the Amendment to Declaration of Condominium of The Hammock at Palm Harbor, A Condominium recorded at Official Records Book 2219, Page 151 in the Public Records of Flagler County, Florida (hereinafter the “Amendment to the Declaration”); and

**WHEREAS**, the Declarant and The Hammock at Palm Harbor Condominium Association, Inc. (hereinafter referred to as the “Association”) filed suit against Rosemary Byard, Frank Pirnat, Whitney Pirnat, Carmen Enright, Vincent Enright, Dominique Leveille, Regine Leveille, Francis Pellino and Elizabeth Pellino in Flagler County, Florida in Case No.: 2018 CA 000539 (“Case #1”); and

**WHEREAS**, the Declarant controlled the Association when Case #1 was filed but subsequent to filing of Case #1, the non-developer members of Association took control of the Association from the Declarant. On or about February 7, 2020, the non-developer member-controlled Association voluntarily dismissed with prejudice all causes instituted on its behalf in Case #1; and

**WHEREAS**, the Association filed suit against the Declarant, Gray Enterprises, Inc., Harold R. Gray and Steven R. Gray in Flagler County, Florida in Case No.: 2019 CA 000620 (“Case #2”); and

**WHEREAS**, all the parties in Case #1 and Case #2 entered into a Settlement Agreement on or about February 19, 2021; and

**WHEREAS**, pursuant to the Settlement Agreement, the parties agreed to a partial termination of The Hammock at Palm Harbor, a Condominium and agreed: to sell the terminated portion of the condominium property; that the purchaser of the terminated property would share the costs of the recreational facilities, including but not limited to the clubhouse and pool; and that the purchaser of the terminated property would establish a separate residential association for the terminated property; and

**WHEREAS**, a Plan of Partial Termination of The Hammock at Palm Harbor, a Condominium, was recorded at Official Records Book 2763, Page 1878 in the Public Records of Flagler County, Florida on March 16, 2023 (“Plan of Partial Termination”), which identifies on Exhibit A, the legal description of the Terminated Property, which is also attached hereto and incorporated herein as **Exhibit “A”** to this Amended and Restated Declaration (hereinafter the “Terminated Property”); and

**WHEREAS**, a Vesting Certificate was executed by the Association vesting the Terminated Property to the Association as the Termination Trustee under the Partial Plan of Termination, and the Vesting Certificate was recorded at Official Records Book 2798, Page 1414 in the Public Records of Flagler County, Florida on July 24, 2023; and

**WHEREAS**, a Trustee’s Deed from the Association to the Declarant was recorded at Official Records Book 2798, Page 1418 in the Public Records of Flagler County, Florida on July 24, 2023, transferring the Terminated Property; and

**WHEREAS**, a Quit Claim Deed and Assignment of Rights and Obligations was also executed by the Association to the Declarant, and was recorded at Official Records Book 2798, Page 1422 in the Public Records of Flagler County, Florida on July 24, 2023; and

**WHEREAS**, the Declarant conveyed the Terminated Property to Hammock Town Homes, Inc., pursuant to a Special Warranty Deed, which was recorded at Official Records Book 2798, Page 1426 in the Public Records of Flagler County, Florida on July 24, 2023; and

**WHEREAS**, an Easement and Cost Share Agreement was executed between Hammock Town Homes, Inc., and the Association, which was recorded at Official Records Book 2798, Page 1432, in the Public Records of Flagler County, Florida on July 24, 2023 (“Easement and Cost Share Agreement”); and

**WHEREAS**, the Plan of Partial Termination also identified the legal description of the Surviving Property on Exhibit B, which is also attached hereto and incorporated herein as **Exhibit “B”** to this Amended and Restated Declaration (hereinafter the “Condominium Property”); and

**WHEREAS**, all restrictions, reservations, covenants, conditions and easements contained herein shall constitute covenants running with the land or equitable servitudes upon the Condominium Property, and shall rule perpetually unless further terminated as provided herein and shall be binding upon all parties or persons subsequently owning property within the Condominium Property and in consideration of receiving and by acceptance of a conveyance, grant, devise, lease, or mortgage, all grantees, devisees, lessees, and assigns and all parties claiming by, through or under such persons, agree to be bound by all provisions hereof. Both the burdens imposed and the benefits shall run with each unit and the interests in the common elements as herein defined.

**NOW THEREFORE**, the submission of the land to the condominium form of ownership by the Original Declaration and the Amendment to the Declaration for the Condominium Property only remains in effect for the Condominium Property as defined herein. By adoption of this Amended and Restated Declaration of Condominium of The Hammock at Palm Harbor, a Condominium (hereinafter the "Declaration"), the Association Members hereby adopt certain amendments to the Original Declaration and the Amendment to the Declaration and hereby restate the Declaration in its entirety. By adoption of this Declaration, the Members of the Association ratify governance of the Condominium Property described above and in **Exhibit "B"** hereto under the condominium form of ownership and the provisions of Chapter 718, Florida Statutes, as amended from time to time, and agree that this Declaration shall specifically and completely supersede and replace the Original Declaration and the Amendment to the Declaration.

**I.**  
**NAME**

The name by which this Condominium is identified is:

**THE HAMMOCK AT PALM HARBOR, A CONDOMINIUM**

**II.**  
**LAND**

The property that continues to be submitted to condominium form of ownership (the "Condominium Property") is described in **Exhibit "B"** attached hereto and made a part hereof, upon which will have been constructed a residential building referred to as "Building 2" also referred to as "Building 200" and the parking garage building more completely described in Article IV hereof. A survey and plot plan of the Condominium Property is attached hereto and made a part hereof as that part of **Exhibit "C"**. The floor plans for Building 2 and the Building 2 Garages are attached hereto and made a part hereof as **Exhibit "C-1"**. The floor plan for the parking garage building is attached hereto and made a part hereof as **Exhibit "C-2"**.

### **III. DEFINITIONS**

The terms contained in this Declaration shall have the meanings given such terms in the Act and, for clarification, the following terms shall have the following meanings:

- A. “Act” means Chapter 718, Florida Statutes, as amended from time to time.
- B. “Annual Assessment” means a share of funds required for the payment of “Common Expenses” which are assessed annually against a “Condominium Unit Owner” (as these terms are defined in this Declaration).
- C. “Articles” means the Articles of Incorporation of the “Association” (as that term is defined in this Declaration). A copy of the Articles is attached hereto and made a part hereof as **Exhibit “D”**.
- D. “Association” means The Hammock at Palm Harbor Condominium Association, Inc., a Florida corporation not for profit, a condominium association responsible for the operation of the Condominium.
- E. “Board of Directors” means the board of directors of the Association.
- F. “Building” means a separate roofed and walled structure containing more than one Condominium Unit. The Condominium contains one (1) residential building with seven (7) Units and one (1) parking garage building with four (4) garage parking spaces.
- G. “By-Laws” means the by-laws of the Association. A copy of the By-Laws is attached hereto and made a part hereof as **Exhibit “E”**.
- H. “City” means the City of Palm Coast, Flagler County, Florida.
- I. “Common Elements” means the portions of the Condominium Property, including the Condominium Property, not included in the “Condominium Units” (as that term is defined in this Declaration).
- J. “Common Expenses” means the expenses for which the Condominium Unit Owners are liable to the Association as set forth in various Sections of the Act and the expenses described as “Common Expenses” in the “Condominium Documents” (as that term is defined in this Declaration), and may include:
  - 1. costs incurred in the operation, maintenance, repair or replacement of the Common Elements;

2. costs of carrying out the powers and duties of the Association;
3. costs of insurance;
4. expenses for payment of fees for cable television reception and transmission, including, but not limited to, cable, satellite reception, or a two-way system, if any, as now or hereafter approved by the Board;
5. expenses for such pest control measures provided to the Condominium Units as are approved by the Board;
6. expenses to be paid by the Association pursuant to the Easement and Cost Share Agreement; and
7. any other expenses designated “Common Expenses” by the Board.

K. “Condominium” means the condominium created by submitting the Condominium Property and all improvements thereon to condominium ownership pursuant to the Original Declaration as revised by this Declaration.

L. “Condominium Documents” means, in the aggregate, this Declaration, the Articles, the By-Laws, and all of the instruments and documents referred to therein and executed in connection with the Condominium, and the rules and regulations (“Rules”) adopted by the Association, all as amended from time to time.

M. “Condominium Property” means the land and property interest subject to the condominium ownership under this Declaration (also referred to as the Surviving Property), and all improvements thereon (including the Condominium Units) and all easements and rights appurtenant thereto intended for use in connection therewith.

N. “Condominium Unit” means “unit,” as set forth in the Act, and is that part of the Condominium Property, which is subject to exclusive ownership, and are identified as Units 201 through 207 on **Exhibit “C-1” attached hereto**.

O. “Condominium Unit Owner” or “Owner” means “unit owner” as set forth in the Act and is the owner of fee simple title of record to a Condominium Unit.

P. “County” means Flagler County, Florida.

Q. “Declarant” means The Hammock at Palm Harbor, LLC, a Florida limited liability company.

R. “Declaration” means this document.

S. “Family” or “Single Family” means any one (1) of the following:

1. One (1) natural person, his or her spouse, if any, and his, her, or their parent, grandparent, adult children, custodial minor children (including foster children), grandchild, or sibling (such persons being related by blood, marriage, adoption, or legal custody), who do and plan to indefinitely and continuously reside together as a single financially and socially interdependent housekeeping unit, with the intention of living within the bonds of family.

2. Not more than two (2) natural persons not meeting the requirement of S (1) above, who do and plan to indefinitely and continuously reside together as a single financially and socially interdependent housekeeping unit, with the intention of living within the bonds of family.

3. The reference to “natural” is intended to distinguish between an individual and a corporation or other artificial entity. A “Family member” is a person who resides in a Unit as part of the Owner’s Family, but is not a title holder.

T. “Institutional Mortgagee” means (a) any generally recognized lending institution having a first mortgage lien upon a Condominium Unit including, but not limited to, any of the following institutions: a federal or state savings and loan or building and loan association; a national, state or other bank or real estate investment trust; a mortgage banking company doing business in the State of Florida; or a life insurance company; or a subsidiary of a holding company owning any of the foregoing; or (b) any “Secondary Mortgage Market Institution” including the Federal National Mortgage Association (FNMA), Government National Mortgage Association (GNMA), Federal Housing Administration (FHA), Federal Home Loan Mortgage Corporation (FHLMC), and Veterans Administration (VA) and such other secondary mortgage market institutions as the Board shall hereafter approve in writing which have acquired a first mortgage upon a Condominium Unit; or (d) such other lenders as the Board shall hereafter approve in writing which have acquired a first mortgage lien upon a Condominium Unit.

U. “Limited Common Elements” means those Common Elements which are reserved for the exclusive use of a certain Condominium Unit or Condominium Units to the exclusion of all other Condominium Units, as described in Article IV hereof.

V. “Special Assessment” means any assessment levied against a Condominium Unit Owner other than the Annual Assessment (the assessment required by the budget adopted annually, as may be amended).

W. “State” means the State of Florida.

X. “Surface Water or Stormwater Management System” means a system which is designed, constructed, or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse water

to prevent or reduce flooding, overdrainage, environmental degradation and water pollution, or to otherwise affect the quality and quantity of discharges.

#### IV. **DESCRIPTION OF IMPROVEMENTS**

A. The Condominium consists of seven (7) Condominium Units and Common Elements. Each Condominium Unit is identified by a number consisting of the number of the building in which it is located and an individual unit number (i.e. 201, 202, etc.). No Condominium Unit bears the same designation as any other Condominium Unit in the Condominium.

B. A survey of the Condominium Property, a plot plan showing the location of the improvements and the floor plans (are attached to and made a part of this Declaration as **Exhibit “C”, “C-1”, and “C-2”**). The survey and plot plan show and identify, among other things, the Common Elements and each Condominium Unit and show their relative locations and approximate dimensions.

C. All Condominium Units are served by Limited Common Element balconies or patios (depending on the location of the Unit in a Building). Limited Common Element balconies shall be maintained, repaired and replaced by the Association as a Common Expense, as more fully set forth in Article XIII.B hereof. All Condominium Units are also served by a separate air conditioning compressor which shall be a Limited Common Element reserved for the exclusive use of each such Condominium Unit. Limited Common Element air conditioning compressors shall be maintained, repaired and replaced by the Condominium Unit Owner, as more fully set forth in Article XIII.A.1 hereof. In addition, the following are reserved for the exclusive use of each Condominium Unit and shall be deemed Limited Common Elements: drywall; flooring and the ceiling material, which are not part of the structure of the building; and exhaust fans, to the extent the exhaust fans are outside the boundaries of the Unit. The Limited Common Elements identified in this paragraph are Limited Common Elements for which the Condominium Unit Owner is responsible to maintain, repair and replace as set forth in Article XIII.A.1 hereof. All Condominium Units are also served by a Limited Common Element assigned parking space located in the driveway leading to the garage portion of each Unit. Limited Common Element assigned parking spaces shall be maintained, repaired and replaced by the Association. The exterior of the Limited Common Element garage parking space shall be maintained, repaired and replaced by the Association as a Common Expense, as more fully set forth in Article XIII.B.1 hereof. There are seven (7) garage parking spaces in Building 200, which were assigned as follows:

1. Garage Parking Space Unit A is assigned to Unit 201;
2. Garage Parking Space Unit B is assigned to Unit 203;
3. Garage Parking Space Unit C is assigned to Unit 202;
4. Garage Parking Space Unit D is assigned to Unit 205;

5. Garage Parking Space Unit E is assigned to Unit 204;
6. Garage Parking Space Unit F is assigned to Unit 207; and
7. Garage Parking Space Unit G is assigned to Unit 206.

## V.

### **UNDIVIDED SHARES IN COMMON ELEMENTS**

Each of the Condominium Units shall have appurtenant thereto an equal, undivided share in the Common Elements, subject, however, to the use of the Common Elements by the Condominium Unit Owners in accordance with the provisions of this Declaration. The undivided share in the Common Elements may only be amended from time to time as provided in Articles XXI.C and XXIV.C hereof.

## VI.

### **SHARES IN COMMON EXPENSES AND COMMON SURPLUS**

The Common Expenses shall be shared and the common surplus shall be owned by each of the Condominium Unit Owners in the same proportions as their ownership interest in the Common Elements. This share may only be amended as provided in Articles XXI.C and XXIV.C hereof.

## VII.

### **VOTING RIGHTS OF UNIT OWNERS IN THE ASSOCIATION**

A. Each Owner or the Owners collectively of the fee simple title to a Condominium Unit shall be entitled to one (1) "Voting Interest" (as that term is defined in the Act) in the Association with respect to matters on which a vote by Condominium Unit Owners is taken under the Condominium Documents or the Act.

B. The vote of the Owners of a Condominium Unit owned by more than one (1) natural person or by a corporation or other legal entity shall be cast by the person ("Voting Member") named in a proxy or certificate of voting authorization ("Voting Certificate") executed by all of the Owners of the Condominium Unit or, if appropriate, by properly designated officers, partners or principals of the respective legal entity and filed with the Secretary of the Association. If such a proxy or Voting Certificate is not filed with the Secretary of the Association, the Voting Interest of such Condominium Unit shall not be considered for a quorum or for any other purpose.

C. Notwithstanding the provisions of Paragraph B of this Article VII, whenever any Condominium Unit is owned by a husband and wife they may, but shall not be required to, designate a Voting Member. If a proxy or Voting Certificate designating a Voting Member is not



filed by the husband and wife, the following provisions shall govern their right to vote:

1. When both husband and wife are present at a meeting, each shall be regarded as the agent and proxy of the other for purposes of casting the vote for each Condominium Unit owned by them. If they are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at that meeting.

2. When only one (1) spouse is present at a meeting, the spouse present may cast the Voting Interest of the Condominium Unit without establishing the concurrence of the other spouse, absent any prior written notice to the contrary to the Association by the other spouse. In the event of prior written notice to the contrary to the Association by the other spouse, the Voting Interest of said Condominium Unit shall not be considered.

3. When neither spouse is present, the person designated in a proxy or Voting Certificate signed by either spouse may cast the Voting Interest of the Condominium Unit, absent any prior written notice to the contrary to the Association by the other spouse or the designation of a different Voting Member by the other spouse. In the event of prior written notice to the contrary to the Association or the designation of a different Voting Member by the other spouse, the Voting Interest of said Condominium Unit shall not be considered.

## **VIII.** **ASSOCIATION**

A. The Association, a Florida corporation not for profit, is responsible for the operation of the Condominium. A true copy of the Articles is hereto annexed as **Exhibit "D"** and made a part hereof. A true copy of the By-Laws is hereto annexed as **Exhibit "E"** and made a part hereof. It is not intended that the Association will operate any other condominiums in addition to this Condominium.

B. Each Condominium Unit Owner shall be a member of the Association in accordance with the provisions of the Articles.

## **IX.** **EASEMENTS**

A. **Easements and Cross-Easements on Common Elements.** Declarant, for itself, its nominees, and the Association, and the Association for such purposes as are assigned to it under the Condominium Documents, reserves the right to impose upon the Common Elements from time to time such easements and cross-easements for ingress and egress and the installation, maintenance, construction and repair of facilities, including, but not limited to, electric power, telephone, sewer, water, gas, drainage, irrigation, lighting, television transmission, cable and master antenna transmission and reception, surveillance, garbage and waste removal, emergency

services, and the like, as it deems to be in the best interest of the Condominium.

B. **Easement for Encroachments.** All of the Condominium Property shall be subject to easements for encroachments, which now or hereafter exist, caused by settlement or movement of any improvements upon the Condominium Property or improvements contiguous thereto caused by minor inaccuracies in building or rebuilding of such improvements. The above easements shall continue until such encroachments no longer exist.

C. **Easement for Stormwater Management System Maintenance.** The Condominium Property shall be subject to a perpetual, nonexclusive easement for ingress and egress, at all reasonable times and in a reasonable manner, by the Association, the St. Johns River Water Management District and any other governmental agency having jurisdiction over the system, over and across the Stormwater Management System and over any portion of the Condominium Property which is a part of the Stormwater Management System, or upon which a portion of the Stormwater Management System is located to operate, maintain, and repair the Stormwater Management System as required by the permits for such System. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management, including buffer areas or swales, without the prior written approval of the St. Johns River Water Management District or any other applicable issuing Agency.

## **X.**

### **APPORTIONMENT OF TAX OR SPECIAL ASSESSMENT IF LEVIED AND ASSESSED AGAINST THE CONDOMINIUM AS A WHOLE**

A. If any taxing authority having jurisdiction over the Condominium shall levy or assess any tax or special assessment against the Condominium as a whole rather than levying and assessing such tax or special assessment against each Condominium Unit (a "New Tax"), then such New Tax shall be paid as a Common Expense by the Association. Any New Tax shall be included, if possible, in the estimated annual budget of the Association, or if not possible, shall be separately levied and collected as a Special Assessment by the Association against all of the Condominium Unit Owners. Each Condominium Unit Owner shall be assessed by and shall pay to the Association a percentage of the New Tax equal to such Condominium Unit Owner's share in the Common Elements. The Association shall separately specify and identify that portion of the annual Budget or of the Special Assessment attributable to such New Tax, and the portions of such New Tax allocated to a Condominium Unit shall be and constitute a lien in favor of the Association upon such Condominium Unit.

B. All personal property taxes levied or assessed against "Association Property" (as that term is defined in the Act) and any Federal income taxes levied and assessed against the Association shall be paid by the Association and shall be included as a Common Expense in the

annual budget of the Association.

## **XI.**

### **OCCUPANCY AND USE RESTRICTIONS**

A. Except as provided in this paragraph, the Condominium Units shall be used only for single family residences. No separate part of a Condominium Unit may be rented, and no “transient” (as defined in Chapter 509, Florida Statutes) may be accommodated therein. No trade, business, profession or other type of commercial activity may be conducted in any Condominium Unit, except Condominium Unit Owners and occupants may use Units for “home office” or “telecommuting” purposes, provided that such uses do not involve customers or clients coming onto the Condominium Property, the posting of any signage in the Condominium, the storage of equipment, products, or materials in the Condominium, nor more than two (2) regular deliveries per day of correspondence or similar items from customary express delivery services.

B. If legal title to a Condominium Unit is in the name of a corporation, trust, partnership or other than an individual or individuals, the Condominium Unit Owner, by certificate delivered to the Secretary of the Association, shall designate one (1) Family or person as the authorized occupant of the Condominium Unit. Except for the designated Family or person, no other occupant may occupy the Condominium Unit.

#### **C. Leases and Tenants.**

1. Application. This Declaration and the Condominium Documents shall apply not only to Condominium Unit Owners, but also to any lessee or tenant or the party who is occupying a Condominium Unit by way of lease express or implied, license or invitation.

2. Leasing Requirements and Limitations. The lease of a Unit is defined as occupancy of the Unit by any person other than the Condominium Unit Owner and his/her Family (if the Condominium Unit Owner is also residing in the Unit with the Family), whether pursuant to verbal or written agreement, where said occupancy by the non-owner involves consideration (the payment of money, the exchange of goods or services, or any other exchange of value). The term “leasing” and “renting” are used interchangeably in this Declaration. The term “Tenant” and “Lessee” are likewise used interchangeably. All leases must be in writing. Should a Condominium Unit Owner wish to lease his or her Unit, he or she shall furnish the Association with a copy of the proposed lease, the name of the proposed Tenant, the names of all proposed residents, and such other information as the Association may reasonably require. Any person occupying the Unit as a resident after initial approval shall be subject to a separate application and approval process. The Association has thirty (30) days from the receipt of notice and all required information within which to approve or disapprove the proposed lease or proposed Tenants or residents. The Association shall give the Condominium Unit Owner written notice of its decision within said period. No individual rooms may be rented and no transient tenants may be accommodated. “Rent-

sharing” and subleasing are prohibited. No Condominium Unit Owner may lease his Condominium Unit for a term of less than six months. Leases may be extended or renewed, subject to Board approval. No Condominium Unit Owner, or anyone on their behalf, shall publish or cause to be published any advertisement of any type in any form of media, including, but not limited to, television, radio, internet website, newspaper, magazine, or trade publication, which indicates that a Unit may be leased for anything less than six months.

3. Board Right of Approval. The Board has the authority to approve or disapprove all leases and renewals or extensions thereof. No person may occupy a Unit as a Tenant, Family member of a Tenant, resident, or otherwise without prior approval of the Board. The Board has the authority to promulgate or use a uniform lease application and require such other information from the proposed Tenant and all proposed residents as the Board deems appropriate under the circumstances. The Board may require an interview of any proposed Tenant and all proposed residents of a Unit as a condition for approval. The Board may, but shall not be obligated or have the duty to, conduct criminal background investigation in connection with proposed leases.

4. Tenant Conduct; Remedies. All leases shall be on a uniform form of lease or lease addendum if so promulgated by the Association. Uniform leases, addenda and all other leases will provide, or be deemed to provide, that the Tenants have read and agreed to be bound by the Condominium Documents. The uniform lease or addendum and other leases shall further provide, or be deemed to provide, that any violation of the Condominium Documents shall constitute a material breach of the lease and subject the Tenant to termination of the lease and/or eviction as well as any other remedy afforded by the Condominium Documents or Florida law.

5. Security Deposit. The Board has the authority, as a condition of granting approval to a lease or renewal or extension thereof, to require that a prospective Tenant or Condominium Unit Owner place a security deposit in an amount not to exceed the equivalent of one (1) month’s rent into an escrow account maintained by the Association to protect against damage to the Common Elements or Association Property. Payment of interest, claims against the deposit, refunds, and disputes under this paragraph shall be handled in the same fashion as provided in Part II of Chapter 83 of the Florida Statutes (2023), as amended from time to time.

6. Approval Process; Disapproval. Any Condominium Unit Owner intending to lease his or her Unit shall submit a copy of the proposed lease, an application, and any other requested information and required fees at least thirty (30) days in advance of the commencement of the lease or renewal or extension term. Upon receipt of all information and fees required by Association and an interview (if requested by the Board), the Association has the duty to approve or disapprove all proposed leases within thirty (30) days of receipt of such information for approval and the completion of the Tenant interview (if required), by sending written notification to the Condominium Unit Owner within such time frame. All requests for approval not acted upon within thirty (30) days shall be deemed approved. Applications for renewals or extensions of lease agreements shall be submitted at least thirty (30) days in advance of the expiration of the lease

agreement. If the Association disapproves a proposed lease or renewal or extension, the Condominium Unit Owner shall receive a short statement indicating the reason for the disapproval, and the lease shall not be made, renewed, or extended. Denial may be based upon Good Cause and any of the following factors shall be considered Good Cause:

(a) The person seeking approval (which includes all proposed occupants or residents) has been convicted of, pled no contest to, or has been released from incarceration, probation or community control for:

(i) a capital, first or second degree felony involving violence to persons within the past ten (10) years; or

(ii) a first or second degree felony involving illegal drugs within the past ten (10) years; or

(iii) any drug offense involving the manufacture and/or distribution of illegal drugs regardless of when that conviction, plea or release occurred; or

(iv) a felony involving sexual battery, sexual abuse, or lewd and lascivious behavior regardless of when that conviction, plea or release occurred;

(b) The person seeking approval has been labeled a sexual offender or a sexual predator by any governmental or quasi-governmental agency regardless of when that label occurred;

(c) The person seeking approval is currently on probation or community control for a felony involving violence to another or damage to or theft of property;

(d) The person seeking approval has a history of disruptive behavior or disregard for the rights or property of others as evidenced by his or her conduct in other housing facilities or associations, or by his or her conduct in this Condominium as a Tenant, resident, occupant or guest;

(e) The Condominium Unit Owner or person seeking approval has failed to provide the information, fees or appearances required to process the application in a timely manner or has made material misstatements or withheld material/information during the application process; or

(f) All assessments, fines and other monetary obligations against the Unit and/or Condominium Unit Owner have not been paid in full.

7. Association Fee. The Condominium Unit Owner or Tenant seeking approval of a lease of a Unit shall pay a transfer fee for each applicant in an amount determined

by the Board, which unless otherwise specified, shall be the maximum amount permitted by law. No charge shall be made in connection with an extension or renewal of a lease.

8. Failure to Notify. Failure of a Condominium Unit Owner to notify any person of the existence of the provisions of this Declaration shall not in any way act to limit the right of the Association to enforcement of the provisions of this Declaration against such person.

9. Enforcement. If a Tenant, resident, other occupant, guest, or invitee fails to abide by the Condominium Documents, the Condominium Unit Owner shall be responsible for the conduct of the Tenants, residents, occupants, guests, or invitees and shall be subject to all remedies set forth in the Condominium Documents and Florida law, without waiver of any remedy available to the Association as to the Tenant. The Condominium Unit Owner has the duty to bring his or her Tenant's conduct (and that of the other residents, occupants, guests, or invitees) into compliance with the Condominium Documents by whatever action is necessary. Further, each Condominium Unit Owner hereby irrevocably delegates to the Association the power for the Association to enforce any provisions of any lease or license or other agreement permitting occupancy of the Condominium Unit to the extent it may against an Owner, and the power to evict a tenant as set forth in the Florida Statutes if the Condominium Unit Owner fails to bring the conduct of the Tenant into compliance with the Condominium Documents in a manner deemed acceptable by the Association. The right of enforcement includes the right to evict such lessee, tenant, invitee, guest or other such person pursuant to Florida Statutes, in the event any such person violates any of the provisions of this Declaration, and the Association has the authority to act as agent of the Condominium Unit Owner and institute an action for eviction in the name of the Association in its own right , or as an agent of the Condominium Unit Owner. The Association has the right to recover any costs or fees, including attorneys' fees, incurred in connection with such actions, from the Condominium Unit Owner which shall be secured by an individual special assessment against the Condominium Unit Owner and a continuing lien in the same manner as assessments for Common Expenses. Any uniform lease or lease addendum will provide, and all leases will be deemed to provide, that the Association has the authority to direct that all rental income related to the Unit be paid to the Association until all past due and current obligations of the Association have been paid in full, including, but not limited to, all past due assessments, other monetary obligations, late fees, interest, attorneys' fees and cost and expenses of collection.

10. Right to Use Facilities. During any period when a Condominium Unit Owner has leased his Condominium Unit or otherwise permitted his Condominium Unit to be occupied only by someone other than the Condominium Unit Owner, such Condominium Unit Owner's right to use any recreational facilities otherwise available to Condominium Unit Owners shall be suspended.

D. A Condominium Unit Owner shall not permit or suffer anything to be done or kept in his Condominium Unit which will increase the insurance rates on his Condominium Unit, or the Common Elements or which will obstruct or interfere with the rights of other Condominium Unit

Owners or the Association. No Condominium Unit Owner shall annoy other Condominium Unit Owners by unreasonable noises or otherwise, nor shall any Condominium Unit Owner commit or permit to be committed any nuisance or illegal act in his Condominium Unit, or on the Common Elements.

E. No Condominium Unit Owner shall display any sign, advertisement or notice of any type in any window or on the exterior of his Condominium Unit or on the Common Elements, and no Condominium Unit Owner shall erect any exterior aerials, or wires or cables of any kind upon or protruding from his Condominium Unit or the Common Elements.

F. A Condominium Unit Owner shall be permitted to keep or harbor in his Condominium Unit no more than two (2) dogs or cats, subject to the provisions immediately following: such dog or cat must be walked only in areas designated for such purpose; and such dog or cat must be leashed or confined in a closed carrying container whenever outside the Condominium Unit. Tenants cannot have pets. When using any elevator on the Condominium Property, any such dog or cat must be either leashed and held in the owner's arms or confined in a closed carrying container. Any Condominium Unit Owner having a dog or cat shall also abide by any Rules promulgated by the Board of Directors regarding pets. No Unit Owner shall be permitted to keep or harbor a dog deemed by the Association to be a Dangerous Dog, as defined herein, regardless of the size of such dog. For purposes of this Declaration, the term "Dangerous Dog" shall mean: a dog that threatens someone, unprovoked, on the Condominium Property; has a known tendency to attack unprovoked or otherwise endanger people or other domestic animals; bites, injures, or attacks a person or domestic animal without provocation; or is trained or kept for dog-fighting. A dog is also deemed a "Dangerous Dog" if it is a member of the following breeds: Doberman Pinchers; Rottweilers; Chows; Staffordshire Terriers; American Staffordshire Terriers; dogs commonly referred to as "Pit Bulls"; or any other breed prohibited by state or local law. If a dog already kept on the Condominium Property is deemed, after notice to the owner of such dog and the right of the dog owner to be heard by the Board of Directors or a committee of the Board appointed for such purpose, to be a Dangerous Dog, such dog shall be removed from the Condominium Property within five (5) days of the final decision of the Board on such matter. Violation of this paragraph or of any of said rules may result in the termination of Condominium Unit Owner's right to keep such dog or cat. No other animals, livestock, or poultry shall be permitted anywhere on the Condominium Property. The foregoing restrictions shall not apply to service animals and emotional support animals to the extent required by Florida or federal law.

G. No Condominium Unit Owner shall install any storm shutters, awnings, hardware or the like without the prior written approval of the Association, as set forth in this Declaration, as to design and color and, in any event, Association approval shall not be granted unless such items substantially conform to the architectural design of the Condominium and the design of any such items which have been previously installed at the time Association approval is requested. The portion of any covering for doors or windows visible from the exterior of a Unit shall display a uniform white or off-white color. Any storm shutters, awnings, hardware or the like installed by

the Condominium Unit Owner shall be deemed a Limited Common Element, which is the responsibility of the Condominium Unit Owner to maintain, repair and replace, and shall be removed and replaced by the Condominium Unit Owner if required by the Association in order for the Association to maintain, repair and replace the Common Elements.

H. No clothesline or other similar device shall be allowed on any portion of the Common Elements and shall only be permitted in the Units or on the Limited Common Elements if the clothesline or other similar device is hidden from view from the Common Elements and other Units.

I. The Common Element parking areas are intended solely for access to and from the Condominium Buildings and the parking of motor vehicles by the Condominium Unit Owners, and Condominium Unit Owner Tenants, guests, invitees and others who are lawfully on the Condominium Property. Accordingly,

1. Nothing other an operable, properly registered motor vehicle may be placed in any parking area and no person may park any vehicle in a manner that obstructs access to other portions of the parking areas;

2. No commercial vehicles are permitted on the Condominium Property, except for the purpose of pick-up, delivery or a service call. A commercial vehicle shall mean: any vehicle bearing commercial insignia or names or having a sign of any kind on the vehicle; any vehicle having equipment, tools, ladders, construction materials, foliage, debris, trash, garbage, hazardous materials or other like items projecting from, hanging on, attached to, visibly stored inside, or stored in the open body of a vehicle; and such other vehicles, which by design, nature, size, use or appearance, the Board determines from time to time to be of a commercial nature.

3. Boats, campers or other types of recreational vehicles shall not be allowed to park on the Condominium Property overnight. Overnight shall mean from 12:00 a.m. to 6:00 a.m.

4. No item including, by way of illustration and not limitation, bicycles, golf carts, lawn furniture, small pools, barbecue grills or trash containers may be stored or left in any parking area. All storage of property on the Condominium Property must be within the Condominium Unit or other storage areas designated by the Association; or

5. The parking areas may not be used for repair of motor vehicles, except emergency repairs. Vehicle washing in the parking areas may be restricted by rules of the Association to designated areas only.

J. The Board of Directors shall, from time to time, promulgate reasonable Rules with respect to the Condominium Property as it determines to be in the best interests of the Association



and the Condominium Unit Owners including, but not limited to, reasonable restrictions on occupancy.

## **XII.**

### **CONVEYANCE OF CONDOMINIUM UNITS**

In order to provide an accurate list of Condominium Unit Owners, the conveyance and transfer of Condominium Units shall be subject to the notice provisions of this Article XII.

A. **Sale.** A Condominium Unit Owner shall notify the Association in writing (which notice shall include a copy of the recorded deed or other instrument of conveyance) of any sale, conveyance, demise or other transfer of title of his Condominium Unit or any interest therein, or of a freestanding garage or any interest therein. The Board may require that such notice be given on a form adopted by the Board and made available to the Condominium Unit Owners for such purpose.

B. **Acquisition by Gift, Devise or Inheritance.** Any person who has obtained title to a Condominium Unit or to a freestanding garage, by gift, devise, inheritance or by any other method not heretofore considered shall notify the Association in writing of such acquisition. The Board may require that such notice be given on a form adopted by the Board and made available to the Condominium Unit Owners for such purpose.

C. **Freestanding Garages.** There are four (4) freestanding garage units that have been transferred through warranty deeds and are not identified a limited common elements. The Owners of the four (4) freestanding garage units do not have membership or voting rights in the Association, do not have an undivided share in the common elements and common surplus and are not liable for assessments based upon their ownership of the freestanding garages. These freestanding garages may only be transferred to the Owner of a Condominium Unit within the Hammock at Palm Harbor.

## **XIII.**

### **MAINTENANCE REPAIRS AND ALTERATIONS**

A. **Condominium Unit Owners.**

1. Each Condominium Unit Owner shall maintain in good condition and repair and replace at his expense when necessary all portions of his Condominium Unit and all interior surfaces within or surrounding his Condominium Unit, such as the surfaces of the walls, ceilings and floors and the fixtures therein, including air conditioning equipment (including the Limited Common Element air conditioning compressor for the Unit), and the Limited Common Element drywall, floors, ceilings and exhaust fans. Each Condominium Unit Owner shall also maintain the interior of the garage, including the garage door opener installed in the Garage, which is a Limited Common Element appurtenant to the Unit. Each Condominium Unit Owner must perform

promptly all such maintenance and repairs which if not so performed would affect a Condominium Unit belonging to any other Condominium Unit Owners or would affect the Condominium Property. Each Condominium Unit Owner shall be liable for any damages that arise due to his failure to perform the above maintenance, repairs and replacement. Each Condominium Unit shall be repaired and maintained in the same condition as such Condominium Unit was conveyed by Declarant to a Condominium Unit Owner.

2. No Condominium Unit Owner shall make any alteration in or to the Common Elements or the portions of a Condominium Unit which are maintained by the Association, remove any portion thereof, make any additions thereto or do anything which shall or may jeopardize or impair the safety or soundness of the Condominium Property or which, in the sole opinion of the Board, would detrimentally affect the architectural design of the Condominium Property, without the prior written approval of the Board. The Board shall have the right to require engineering plans, architectural plans, and any other documentation the Board deems necessary prior to determining whether the alteration should be made or not.

3. No Condominium Unit Owner shall paint, refurbish, stain, alter, decorate, repair, replace, enclose or change the Common Elements or any outside or exterior portion or surfaces of the Condominium Property, including, without limitation, patios, balconies, garages, doors and windows; place any awnings, screening or shutters on or in any Condominium Unit; or install on any portion of the Condominium Property any exterior lighting fixture, mailbox, screen door or other similar item without the prior written approval of the Association and, in any event, Association approval shall not be granted unless such items substantially conform to the architectural design of the Building and the design of any such items which have been previously installed with the Association's approval. For the convenience of the Association and Condominium Unit Owners, the Association may adopt and pre-approve standards for certain additions to the Units (e.g. screen enclosure standards for patios or balconies) to facilitate the installation of such additions by the Condominium Unit Owners.

4. Each Condominium Unit Owner shall promptly report to the Association or its agents any defect or need for repair on the Condominium Property which the Association is responsible to maintain and repair, upon the Condominium Unit Owner's becoming aware of such defect or need for repair.

5. Each Condominium Unit Owner shall repair, maintain and replace as necessary all piping, wiring, ducts, conduits, appliances and other facilities located within the Condominium Unit and serving only such Condominium Unit for the furnishing of utility services; provided, however, that all such repairs, maintenance and replacements shall be done by licensed plumbers or electricians approved by the Association or an applicable utility company, and such repairs shall be paid for by and be the financial obligation of such Condominium Unit Owner.

6. Each Condominium Unit Owner acknowledges and recognizes that any

officer of the Association or any agent of the Board shall have the irrevocable right to have access to each Condominium Unit from time to time during reasonable hours and upon reasonable notice as may be necessary for inspection, maintenance, repair or replacement of any part of the Common Elements therein or accessible therefrom, including without limitation the Limited Common Elements, or at any time as may be necessary for emergency repairs.

**B. The Association.**

1. The Association shall repair, maintain and replace as necessary all of the Common Elements including, without limitation, the Limited Common Elements (except the Limited Common Element air conditioning compressors and other Limited Common Elements identified in Articles IV.C, XI.G, and XIII.A.1), and all outside or exterior surfaces of the Condominium Property including, without limitation, exterior surfaces of Condominium Units, patios and balconies, the exterior of the garages, and shall maintain, repair and replace as necessary all piping, wiring, ducts, conduits, appliances, and other facilities for furnishing of any and all utility services to the Condominium Units located within the Common Elements, but excluding therefrom all piping, wiring, ducts, conduits, appliances and other facilities located within a Condominium Unit serving only said Condominium Unit.

2. The Association shall have the right to make or cause to be made any additions, alterations, changes and improvements to the Common Elements, whether or not material or substantial, which are approved by the Board of Directors; provided, however, except in the case of an emergency, if the cost of the same shall exceed Twenty-five Thousand Dollars (\$25,000.00), the affirmative vote of fifty percent (50%) of the Condominium Unit Owners (without the Board of Director's approval being required) shall be required, and the cost of such alterations and improvements shall be assessed against the Condominium Unit Owners in the manner provided in the By-Laws.

3. The responsibility for the maintenance, operation, and repair of the surface water or stormwater management system shall be as set forth in the Easement and Cost Share Agreement. Such maintenance shall include the exercise of practices which allow the surface water or stormwater management system to provide drainage, water storage, conveyance, or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District ("District") and any other local, state and federal authorities having jurisdiction. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved in writing by the St. Johns River Water Management District and any other local, state and federal authorities having jurisdiction.

**XIV.**

**COMMON EXPENSES, OPERATING EXPENSES AND ASSESSMENTS**

**A. Common Expenses and Operating Expenses.** The Board of Directors shall

prepare and adopt in accordance with the By-Laws an annual budget (the "Budget") of the Common Expenses for operating and managing the Association and the Condominium, including, without limitation, expenses set forth in the Easement and Shared Use Agreement for the maintenance and repair of the surface water or stormwater management system. The Common Expenses shall be shared by and among the Condominium Unit Owners in the manner described under Article VI of this Declaration and assessed against each Condominium Unit Owner annually as the Annual Assessment. Each Condominium Unit Owner shall be obligated to pay such Special Assessments as shall be levied by the Board of Directors in addition to the Annual Assessment against his Condominium Unit whether as a result of (a) extraordinary items of expense, (b) the default of other Condominium Unit Owners in the payment of their Assessments, or (c) such other reason as may be determined by the Board of Directors which is not inconsistent with the terms of the Condominium Documents or the Act.

**B. Assessments.**

1. The record owner of each Condominium Unit shall be personally liable, jointly and severally if there is more than one (1) such Owner, to the Association for the payment of all Assessments levied by the Association against his/her Condominium Unit and for all costs of collecting such Assessments, including interest, late fees, delinquent Assessments and attorneys' fees, as well as costs and expenses of collection incurred by the Association incident to the collection of the Assessment or enforcement of the lien, including, but not limited to, fees, costs, or expenses incurred in an appeal, in a bankruptcy, in litigating the amount of fees after entitlement thereto has already been determined, and/or in litigating the entitlement to fees. Assessments may, in the discretion of the Board of Directors, be made payable in equal installments either on the first day of each month or on the first day of each calendar quarter, in advance, during the year in which such Assessments apply, but in no event less frequently than on the first day of each calendar quarter. In the event of a default by a Condominium Unit Owner in the payment of an installment of any Assessment, the Board of Directors may accelerate any installments of the Assessment coming due for the remainder of the current budget year upon recordation of a lien for such unpaid assessment(s) in the public records of the County, whereupon the entire unpaid balance of the Assessment shall become due upon the date of recording such lien. If any Assessments are not paid within twenty (20) days after its respective due date, the Association, by action of the Board of Directors, may proceed to enforce and collect any such Assessments against the Condominium Unit Owner owing the same in any manner provided for under the Act, including foreclosure and sale of the Condominium Unit.

2. The Association shall have all of the powers, rights and privileges and may avail itself of any and all of the legal remedies provided by the Act, including a continuing lien upon a Condominium Unit for any unpaid Assessment, interest, late fees, and expenses thereon owed by the Condominium Unit Owner of such Condominium Unit and the right to collect from such Condominium Unit Owner reasonable attorneys' fees and expenses at all trial and appellate levels incurred by the Association incident to the collection of such Assessments or the

enforcement of such lien. Assessments (including installments thereon) not paid within ten (10) days of the date due shall bear interest from the date when due until paid at the highest rate permitted under law and a late fee in the highest amount permitted by the Act. The Association may bring an action in its name to foreclose a lien for assessment in the manner a mortgage or real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien.

3. The priority of the Association's lien and the obligation for payment of past due assessments or other sums due in relation to first mortgagees who obtain title as a result of foreclosure or deed in lieu of foreclosure, shall be determined by the Act.

4. Except as provided in Article XIV.B.3 above, the grantee shall be jointly and severally liable with the grantor for all unpaid Assessments, interest, late fees, attorneys' fees and other costs and expenses of collection incurred by the Association against the grantor up to the time of transfer of title, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee.

## **XV. LIABILITY INSURANCE**

A. The Board of Directors shall obtain and maintain at all times liability insurance in such amounts as it may determine from time to time for the purpose of providing liability insurance coverage for all property and improvements in the Condominium excluding the Condominium Units; provided, however, that such policy or policies shall have limits determined by the Board of Directors to be adequate covering all claims for personal injury and for property damage arising out of a single occurrence. The Board of Directors shall collect a share of the premium for such insurance from each Condominium Unit Owner as a part of the Common Expenses. Said insurance shall include, but not be limited to, legal liability for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of any property or improvements within the Condominium, legal liability arising out of lawsuits related to employment contracts of the Association, water damage, liability for hazards related to usage and liability for property of others, hired automobile, non-owned automobile and off-premises employee coverage. All such policies shall name the Association,, and the Condominium Unit Owners as their respective interests may appear as the insured under such policy or policies. The original or a true copy of each policy shall be held in the office of the Association. The Board has the authority to compromise and settle all claims against the Association or upon insurance policies held by the Association. The Condominium Unit Owners shall have no personal liability upon such claims, except as may be otherwise provided by law. Each Condominium Unit Owner shall be responsible for purchasing liability insurance, including, without limitation, water damage liability, for accidents occurring in his own Condominium Unit and, if the Condominium Unit Owner so determines, for supplementing any insurance purchased by the Association.

B. The Association shall maintain adequate fidelity coverage to protect against dishonest acts of the officers and employees of the Association and the Directors and all others who handle and are responsible for handling funds of the Association as permitted under the Act and in such amounts required by the Act.

C. All insurance policies or fidelity bonds purchased pursuant to this Article shall provide that they may not be cancelled without at least ten (10) days prior written notice to the Association and to Eligible Mortgagees.

## **XVI.**

### **CASUALTY INSURANCE AND DESTRUCTION OF IMPROVEMENTS**

A. 1. Each Condominium Unit Owner shall be responsible for the purchase of casualty insurance for all of his personal property and improvements, including fixtures, to his Condominium Unit. The Association shall obtain casualty insurance with such coverage and in such amounts as it may determine from time to time for the purpose of providing casualty insurance coverage for the Condominium Property, including Fire and Extended Coverage Insurance, Vandalism and Malicious Mischief Insurance, sprinkler leakage, water damage, debris removal, demolition, and such other risks as shall customarily be covered with respect to projects or developments similar to the Condominium in construction, location and use, insurance for unrealized Assessments due to the casualty and, if the Association so determines, flood insurance sponsored by the Federal government, all of which insurance shall insure all of the insurable improvements on and within the Condominium Property, including personal property owned by the Association, in and for the interest of the Association, all Condominium Unit Owners and Institutional Mortgagees, as their interests may appear, in a company acceptable to the Board of Directors. The Association shall purchase insurance for the buildings located within the Condominium in an amount equal to one hundred percent (100%) of the "Replacement Value" thereof. The term "Replacement Value" shall mean one hundred percent (100%) of the current replacement costs exclusive of land, foundation, excavation, items of personal property and other items normally excluded from coverage as determined annually by the Board of Directors. The Board of Directors may determine, consistent with the above provisions of this Paragraph A.1, the kind of coverage and proper and adequate amount of insurance. The casualty insurance shall contain an "agreed amount endorsement" or its equivalent, "inflation guard endorsement" and, if determined necessary, an "increased cost of construction endorsement" or "contingent liability from operation of building laws endorsement" or a "demolition endorsement" or the equivalent.

2. The Association may, to the extent possible and not inconsistent with the foregoing, obtain one (1) policy to insure all of the insurable improvements within the Condominium. The premiums for such coverage and other expenses in connection with such insurance shall be paid by the Association and charged to Condominium Unit Owners as part of the Common Expenses. The company or companies with which the Association shall place its insurance coverage, as provided in this Declaration, and the insurance agent or agents placing such

insurance, must be authorized to do business in the State.

B. All such aforesaid policies shall provide that they may not be cancelled without at least ten (10) days prior written notice to the Association and Eligible Mortgagees. The Board of Directors is hereby irrevocably appointed agent for each Condominium Unit Owner and each owner of a mortgage or other lien upon any Unit and for each owner of any other interest in the Condominium Property to adjust and settle all claims arising under insurance policies carried by the Association and to execute and deliver releases upon the payment of such claims. Any payments to be made to the Condominium Unit Owners shall be paid to the Condominium Unit Owners and their Institutional Mortgagees, if any, as their interests may appear.

C. In the event of any damage to the Condominium Property, except as hereinafter specifically set forth, no mortgagee shall have any right to participate in the determination of whether the Condominium Property is to be rebuilt nor shall any mortgagee have the right to apply insurance proceeds and, if necessary, funds from a Special Assessment sufficient to pay for required restoration and repair with respect to such damage, to the repayment of its loan, unless such proceeds are distributed to Condominium Unit Owners or their respective mortgagees.

D. If any part of the Condominium Property required to be insured by the Association pursuant to the Act or other portions of the Condominium Property the Association is required to maintain shall be damaged by casualty or covered cause of loss under the Association's applicable insurance policy, repair after casualty shall be under the direction of the Board and shall be taken in a responsible and reasonable manner, unless a decision is made to pursue termination of the Condominium, as set forth in Article XXV of this Declaration.

E. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original Condominium Property or according to plans and specifications approved by the Board, regardless of whether it is an alteration or addition as described in Article XIII.B.2 and in excess of \$25,000.00 and no vote of the Condominium Unit Owners shall be required.

F. Repair after casualty of the any part of the Condominium Property required to be insured by the Association pursuant to the Act or other portions of the Condominium Property the Association is required to maintain shall be undertaken by the Association, except that a Condominium Unit Owner may undertake reconstruction work on portions of the Unit with the prior written consent of the Board. However, such work, and the disbursement of insurance proceeds, may be conditioned upon the approval of the repair methods, the qualifications of the proposed contractor, the contract that is used for that purpose, and reasonable verification of appropriate steps to ensure that the work is done and that the contractor is paid for the performance of said work. Condominium Unit Owners shall be responsible for reconstructing portions of the Condominium Property excluded by the Act from the Association's insurance obligation, including all a Condominium Unit Owner's personal property and any alterations or additions to

the Condominium Property that are not insured by the Association's insurance policy (hereinafter "Owner Insurance Elements"). All required governmental permits and approvals must be obtained prior to commencing reconstruction. Upon completion of repairs by the Condominium Unit Owner, the Association, upon request of any Institutional Mortgagee of any such damaged Condominium Unit, shall provide such Institutional Mortgagee with an affidavit stating that the repairs have been completed in a manner acceptable to the Association.

G. The cost of repair after casualty for those portions of the Condominium Property required to be insured by the Association, including expenses not covered by insurance due to deductibles or otherwise, is a Common Expense, except as provided elsewhere, including, but not limited to, Section 718.111(11)(n) of the Act and Owner Insurance Elements.

H. Incidental Damage to Owners Insurance Elements or to the Condominium Unit Owner's other property not insured by the Association in connection with repair after casualty shall be the financial responsibility of the Condominium Unit Owner unless covered by the Association's policy.

I. Repair after casualty may be suspended by the Board if it determines that circumstances indicate that terminating the Condominium may be a more viable economic alternative to repair or reconstruction.

## **XVII.**

### **PROHIBITION OF FURTHER DIVISION**

The undivided share in the Common Elements which is appurtenant to a Condominium Unit shall not be separated from it and shall pass with the title to the Condominium Unit, whether or not separately described. The share in the Common Elements appurtenant to a Condominium Unit cannot be conveyed or encumbered except together with the Condominium Unit. The shares in the Common Elements appurtenant to Condominium Units are undivided, and no action for partition of the Common Elements shall lie. Additionally, there shall be no further division of Condominium Units and any instrument, whether a deed, mortgage, or otherwise, which describes only a portion of any Condominium Unit shall be deemed to describe the entire Condominium Unit and the interest in the Common Elements appurtenant thereto.

## **XVIII.**

### **SEVERABILITY**

If any provision of this Declaration, the Condominium Documents or the Act is held to be invalid, the validity of the remainder of this Declaration, the Condominium Documents or the Act shall not be affected.



**XIX.**  
**INTERPRETATION**

A. Article, paragraph and subparagraph titles in this Declaration are intended only for convenience and in no way do such titles define, limit, or in any way affect this Declaration or the meaning or contents of any material contained herein.

B. Whenever the context so requires, the use of either gender shall be deemed to include both genders, the use of the plural shall include the singular and the use of the singular shall include the plural.

C. As used herein the term “member” means and refers to any person, natural or corporate, who becomes a member of the Association as described in the Articles and By-Laws whether or not that person participates in the Association as a member.

D. If a Court of competent jurisdiction should hereafter determine that any provision of this Declaration is in violation of the rule of property known as the “rule against perpetuities” or any other rule of law because of the duration of a time period, such provision shall not thereby become invalid, but instead the duration of such time period shall be reduced to the maximum period allowed under such rule of law, and in the event the determination of the duration of such time period requires measuring lives, such measuring lives shall be those of the incorporators of the Association.

E. In the event of a conflict between any provision of the Condominium Documents and the Act, the Act shall control, except in cases where the Act permits the Condominium Documents to regulate the subject, in which case the Condominium Documents will control. In the event of a conflict between this Declaration and the other Condominium Documents, the same shall be governed as provided in the Article XIII of the Articles of Incorporation.

**XX.**  
**REMEDIES FOR VIOLATION**

A. Each Condominium Unit Owner shall be governed by and shall comply with the Act and all of the Condominium Documents as they may exist from time to time. Failure to do so shall entitle the Association, and in the event of its failure to act after demand upon it to do so has been made by any Condominium Unit Owner or any Institutional Mortgagee, then any Condominium Unit Owner or Institutional Mortgagee may bring an action for injunctive relief, damages or both, and such parties shall have all other rights and remedies which may be available at law or in equity. The failure to enforce promptly any provisions of the Condominium Documents shall not be deemed a waiver of such provision or be a bar to its subsequent enforcement. In any proceeding commenced because of an alleged failure of a Condominium Unit Owner to comply with any terms of the Condominium Documents, the prevailing party shall be entitled to recover

the costs of such proceeding and reasonable attorneys' fees and expenses at all trial and appellate levels.

B. Notwithstanding the availability of the remedies set forth in Paragraph A above, the Association shall also have the power to assess reasonable fines as set forth in Section 9 of the By-Laws to enforce any of the provisions of the Declaration, By-Laws, and Rules.

## **XXI.**

### **AMENDMENTS OF THE DECLARATION**

A. Except as to (i) matters described in Paragraphs B, C, D, E and F of this Article XXI and amendments pursuant to Article XXIV, this Declaration may be amended by the affirmative vote of not less than seventy-five percent (75%) of all the Condominium Unit Owners. Such vote shall be taken at any regular or special meetings of the Condominium Unit Owners called and held in accordance with the By-Laws. Such amendment shall be evidenced by a certificate executed by the Association in recordable form in accordance with the Act. The amendment shall become effective upon the recording of such certificate amongst the Public Records of the County.

B. No amendment of the Declaration shall change the configuration or size of any Condominium Unit in any material fashion, materially alter or modify the appurtenances to such Condominium Unit, change the proportion or percentage by which any Condominium Unit Owner shares the Common Elements and Common Expenses or owns the Common Surplus, nor change any Condominium Unit's voting rights in the Association unless all of the record owners shall consent in writing thereto. Any such amendment shall be voted on at a special meeting of the Condominium Unit Owners and their consent thereto shall be evidenced by a Certificate executed and recorded in the same manner as amendments provided in Paragraph A of this Article XXI.

C. After the Majority Election Meeting, if it appears that through any scrivener's error a Condominium Unit has not been designated as owning an appropriate undivided share of the Common Elements or does not bear an appropriate share of the Common Expenses or that all the Common Elements in the Condominium have not been distributed in the Declaration, so that the sum total of the shares of Common Elements which have been distributed or the sum total of the shares of the Common Expenses or ownership of common surplus fails to equal one hundred percent (100%), or if it appears that more than one hundred percent (100%) of Common Elements or Common Expenses or ownership of the common surplus have been distributed, the error may be corrected by filing an amendment to the Declaration approved by the Board of Directors.

D. This Declaration may be amended in the same manner as required for an amendment to the By-Laws when the Declaration is being amended solely for the purpose of setting forth or affixing an amendment of the By-Laws thereto.

E. Any amendment to this Declaration which alters any provision relating to the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the Condominium Property, must have the prior written approval of the St. Johns River Water Management District or any other applicable issuing Agency.

**XXII.**  
**ASSOCIATION TO ACQUIRE**  
**INTERESTS AND ENTER INTO AGREEMENTS**

A. The Board of Directors is authorized to enter into other agreements to acquire other possessory or use interests in real property and to provide therein that the expenses of said real property and any improvements thereon, including taxes, insurance, utility expenses, maintenance and repairs, are Common Expenses; provided, however, that in the event the expenditures incurred thereby exceed, in the aggregate, Five Thousand Dollars (\$5,000.00) per annum, the approval of seventy-five percent (75%) of the Owners shall first be required.

B. The Board of Directors shall have the right to enter into agreements with management entities, any of which may be, but are not required to be, a subsidiary, affiliate, or an otherwise related entity of Declarant, to manage and operate the Condominium, including services and administrative obligations required to be performed by the Association pursuant to this Declaration. The expenses incurred thereunder shall be Common Expenses.

**XXIII.**  
**RIGHTS OF ELIGIBLE MORTGAGEES**

A. The Association shall be required to make available for inspection upon reasonable notice, during normal business hours the Condominium Documents and the books, records and financial statements of the Association to the Condominium Unit Owners and the holders, insurers or guarantors of any first mortgages encumbering Condominium Units. In addition, evidence of insurance shall be issued to each Condominium Unit Owner and mortgagee holding a mortgage encumbering a Condominium Unit upon written request to the Association.

B. Upon written request to the Association, any Institutional Mortgagee shall be entitled to financial statements for the immediately preceding fiscal year.

C. Upon written request to the Association, identifying the name and address of an Institutional Mortgagee or the insurer or guarantor of a mortgage held by an Institutional Mortgagee encumbering a Condominium Unit (such Institutional Mortgagee, insurer or guarantor is herein referred to as an "Eligible Mortgagee") and the legal description of such Condominium Unit, the Association shall provide such Eligible Mortgagee with timely written notice of the following:

1. Any condemnation, loss or casualty loss which affects any material portion of the Condominium or any Condominium Unit encumbered by a first mortgage of such Eligible Mortgagee;

2. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

3. Any proposed action which would require the consent of mortgagees holding a mortgage encumbering a Condominium Unit; and

4. Any delinquency in the payment of any Assessments or any other charge owed to the Association by a Condominium Unit Owner owning a Condominium Unit encumbered by a mortgage held, insured or guaranteed by an Eligible Mortgagee where such failure or delinquency has continued for a period of sixty (60) days. The Association shall not be liable to any Eligible Mortgagee for its failure to provide materials or information to any Eligible Mortgagee as hereinabove provided.

D. Any Eligible Mortgagees shall have the right, but not the obligation, jointly or severally, and at their sole option, to pay any Assessments which are in default and which may or have become a charge against any Condominium Unit.

#### **XXIV.**

#### **PROVISIONS RELATING TO**

#### **CONDEMNATION OR EMINENT DOMAIN PROCEEDINGS**

A. **Awards.**

1. The taking of any portion of the Condominium Property by condemnation shall be deemed to be a casualty, and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty. If any award shall be paid to a Condominium Unit Owner, the Condominium Unit Owner shall deposit the award with the Association; and in the event of failure to do so, in the discretion of the Board of Directors, a Special Assessment shall be made against a defaulting Condominium Unit Owner in the amount of the award, or the amount of the award shall be set off against the sums hereafter made payable to that Condominium Unit Owner.

2. The Association shall represent the Condominium Unit Owners in the condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Elements, or any part thereof, by the condemning authority.

B. **Disbursement of Funds.** If the Condominium is terminated in accordance with the

provisions of this Declaration after condemnation, the proceeds of the awards and Special Assessments, if any, shall be divided into the shares described in this Declaration and distributed to the Condominium Unit Owners and Institutional Mortgagees as their interests may appear. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced, the owners of the condemned Condominium Units will be made whole and the Condominium Property damaged by the taking will, to the extent reasonably possible, be made usable in the manner provided below.

C. **Condominium Unit Reduced But Tenable.** If the taking reduces the size of a Condominium Unit ("Affected Condominium Unit") and the remaining portion of the Affected Condominium Unit can be made tenable, the award for the taking of a portion of the Affected Condominium Unit shall be used for the following purposes in the order stated and the following changes shall be effected:

1. The Affected Condominium Unit shall be made tenable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be paid by the Association and assessed as a Common Expense.

2. The balance of the award, if any, shall be distributed to the owner of the Affected Condominium Unit and to the Institutional Mortgagee of the Affected Condominium Unit, the remittance being made payable to the Condominium Unit Owner and mortgagee as their interests may appear.

3. If the floor area of the Affected Condominium Unit is reduced by more than ten percent (10%) by the taking, the number representing the share in the ownership of the Common Elements appurtenant to the Affected Condominium Unit shall be reduced ("Reduction in Percentage of Common Elements") in the proportion by which the floor area of the Affected Condominium Unit is reduced by the taking, and the shares of all Condominium Units in the Common Elements shall be restated with the Reduction in Percentage of Common Elements being allocated to all the Condominium Units of the Condominium in proportion to their share of ownership in the Common Elements.

D. **Affected Condominium Unit Made Untenable.** If the taking is of the entire Affected Condominium Unit or so reduces the size of an Affected Condominium Unit that it cannot be made tenable, the award for the taking of the Affected Condominium Unit shall be used for the following purposes in the order stated and the following changes shall be effected in the Condominium:

1. The award or the market value of the Affected Condominium Unit immediately prior to the taking, whichever is less, shall be paid to the Condominium Unit Owner and the Institutional Mortgagee thereof as their interests may appear.

2. The remaining portion of the Affected Condominium Unit, if any, shall become a part of the Common Elements of the Condominium and shall be placed in a condition approved by the Board of Directors; provided that if the cost of the work shall exceed the balance of the fund from the award for the taking after the payment set forth in Paragraph D.1 above, the work shall be approved in the manner required for further improvement of the Common Elements.

3. The shares in the Common Elements of the Condominium appurtenant to the Condominium Units that continue as part of the Condominium shall be adjusted to distribute the ownership of the Common Elements from the Affected Condominium Unit among the reduced number of Condominium Units in the Condominium. The shares of the continuing Condominium Units in the Common Elements shall be restated with the percentage of ownership in the Common Elements of the Affected Condominium Units being allocated to all of the continuing Condominium Units of the Condominium in proportion to their relative share of ownership in the Common Elements.

4. If the amount of the award for the taking is not sufficient to pay the market value of the Affected Condominium Unit to the Condominium Unit Owner and to condition the remaining portion of the Affected Condominium Unit for use as a part of the Common Elements, the additional funds required to condition the remaining portion of the Affected Condominium Unit for use as part of the Common Elements shall be raised by Special Assessments against all of the Condominium Unit Owners who will continue as Condominium Unit Owners of the Condominium after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the shares in the Common Elements of those Condominium Unit Owners remaining after the changes effected by the taking.

5. If the market value of an Affected Condominium Unit prior to the taking cannot be determined by agreement among the Condominium Unit Owners, the Institutional Mortgagee of the Affected Condominium Unit and the Association within thirty (30) days after notice by either party, the value shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two (2) appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Affected Condominium Unit; and the determination of the arbitrators shall be conclusive upon the parties and judgment upon the same may be entered in any court having jurisdiction thereof. The cost of arbitration proceedings shall be assessed against all Condominium Units in the Condominium in proportion to the shares of the Condominium Units in the Common Elements as they exist prior to the changes effected by the taking.

E. **Taking of Common Elements.** Any award for taking of Common Elements shall be used to make the remaining portion of the Common Elements usable in the manner approved by the Board of Directors; provided that if the cost of the work shall exceed the award, the work shall be approved in the manner required for further improvements of the Common Elements. The balance of the awards for the taking of Common Elements, if any, shall be distributed to the

Condominium Unit Owners in the shares in which they own the Common Elements and to Institutional Mortgagees as their interests may appear.

F. **Amendment of Declaration.** The changes in Condominium Units, in the Common Elements and in the ownership of the Common Elements that are affected by the condemnation shall be evidenced by an amendment of this Declaration that need be approved only by a majority of the Board of Directors with the written approvals from and Eligible Mortgagees as may be required pursuant to Article XXI of this Declaration. Such amendment shall be evidenced by a certificate executed by the Association in recordable form in accordance with the Act, and a true copy of such amendment shall be mailed by certified or registered mail by the Association to all Condominium Unit Owners and Eligible Mortgagees (“Interested Parties”). The amendment shall become effective upon the recording of such certificate amongst the Public Records of the County.

## **XXV. TERMINATION**

A. This Declaration and the condominium form of ownership with respect to the Condominium Property may be terminated as provided for by the Act at the time of such termination.

B. In no event shall the Association be dissolved unless and until maintenance responsibility for the surface water or stormwater management system located within the Condominium Property is assumed by an entity acceptable to the St. Johns River Water Management District and any other applicable issuing Agency.

## **XXVI. RIGHTS OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT**

A. Notwithstanding any other provisions contained elsewhere in this Declaration, the St. Johns River Water Management District shall have the rights and powers enumerated in this paragraph. The District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration that relate to the maintenance, operation, and repair of the surface water or stormwater management system. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted, or if modified, as approved in writing by the District. No person shall alter the drainage flow of the Stormwater Management System, including any buffer areas, swales, treatment berms or swales, without the prior written approval of the District. Any amendment to this Declaration that alters the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the Condominium Property, must have prior written approval of the District. In the event that the Association is dissolved or the Condominium terminated, prior to such dissolution or termination, all responsibility relating to the Stormwater Management System must be assigned to and accepted by an entity approved in writing by the District. As used in this

Article XXVI, the term “District” shall be deemed to include any other applicable issuing Agency having jurisdiction over the Stormwater Management System and the rights granted to the District shall be deemed to also be granted to any other applicable issuing Agency having jurisdiction over the Stormwater Management System.

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