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C. Ward

**PREPARED BY AND RETURN TO:**

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KEN BURKE, CLERK OF COURT  
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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**COUNTRY CLUB TOWNHOMES**

THIS DECLARATION, made on the date hereinafter set forth, by SP COUNTRY CLUB HOMES, LLC, a Florida limited liability company, hereinafter referred to as "Developer".

WHEREAS, Developer is the owner of the land described in Exhibit "A" attached hereto, which it intends to develop under the name COUNTRY CLUB TOWNHOMES to be used for multi-family residences with fee simple ownership with common areas for recreation and other needs; and

WHEREAS, the Developer desires to provide covenants, conditions and restrictions concerning the use of the property encumbered by this Declaration.

NOW, THEREFORE, for and in consideration of the premises and for other good and valuable consideration, Developer, for itself and its successors, grantees and assigns, does hereby restrict the use, as hereinafter provided, of all the property and improvements now included or to be constructed in the future on the property described in Exhibit "A" (being hereinafter sometimes referred to as the "Land"), and does hereby place upon the Land the following Covenants to run with the title to the Land, and the grantees, their heirs, successors and assigns, of and under any deed conveying the Land, or any parts or portions thereof, shall be deemed, by the acceptance of such deed, to have agreed to all of the Covenants and to have covenanted and agreed to observe, comply with, and be bound by the Covenants, Conditions and Restrictions hereinafter set forth.

**ARTICLE I - DEFINITIONS**

**Section 1.01.** The following words and terms, when used in this Declaration or any supplemental or amendatory declaration (unless the context shall prohibit or clearly indicate otherwise), shall have the following meanings:

(a) "Articles" means the Articles of Incorporation of the Association, a copy of which is attached as Exhibit "B".

(b) "Assessment" means any periodic assessment, special assessment or other charge as described in Article VIII.

(c) "Association" shall mean and refer to COUNTRY CLUB TOWNHOMES OF CLEARWATER OWNERS ASSOCIATION, INC., a Florida nonprofit corporation, together with its successors, legal representatives and assigns.

(d) "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.

(e) "Bylaws" shall mean and refer to the Bylaws of the Association, as same may be amended from time to time, a copy of which is attached as Exhibit "C".

(f) "Common Area" shall mean all of that property owned or to be owned by the Association for the common use and enjoyment of members of the Association, including, but not limited to, streets, roads, signage, sidewalks, landscape, irrigation system, privacy walls and fences, and elements of the Surface Water Management System.

(g) "Covenants" shall mean and refer to the covenants, restrictions, easements, affirmative obligations, charges and liens created and imposed by this Declaration.

(h) "Declaration" shall mean and refer to this Declaration, together with any supplements or amendments hereto.

(i) "Developer" shall mean and refer to SP COUNTRY CLUB HOMES, LLC, a Florida limited partnership, together with its successors, legal representatives, grantees and assigns, including the purchaser of its interest at a foreclosure sale. Any rights specifically reserved to SP COUNTRY CLUB HOMES, LLC, in any instrument of conveyance shall not inure to the benefit of its successors or assigns, unless such rights are assigned by SP COUNTRY CLUB HOMES, LLC, in a recorded instrument to such successor or assignee, or such successor or assignee accepts the obligations of Developer.

(j) "Development" shall mean COUNTRY CLUB TOWNHOMES, a residential community, located in Clearwater, Pinellas County, Florida, on the real property described in Exhibit "A" attached hereto, and such additions thereto as may hereafter be brought within the jurisdiction of the Association or encumbered by this Declaration.

(k) "Dwelling" shall mean and refer to a single-family residence located on a Lot. The word Dwelling may, when the context so requires, be used interchangeably herein with the words Lot and Unit.

(l) "First Mortgagee" shall mean and refer to any institutional lender who holds a first mortgage on a Lot or Dwelling Unit and who has notified the Association in writing of its interest in the Lot or Dwelling Unit.

(m) "Institutional Lender" shall mean and refer to one or more commercial or savings banks, savings and loan associations, mortgage companies, insurance companies, pension funds or business trust, including, but not limited to, real estate investment trusts, governmental institution and any other lender engaged in financing the purchase, construction or improvement of real estate, or any assignee of loans made by such lender, or any private or governmental institution which has insured the loan of the lender, or any combination of the foregoing entities.

(n) "Land" shall mean and refer to all of the lands and improvements described in Exhibit "A" and any additions or amendments thereto.

(o) "Limited Common Area" shall mean any portion of the Common Area, the exclusive use of which has been assigned as an appurtenance to a specific Unit, such as a parking space.

(p) "Lot" shall mean and refer to any area of real property, which is included in Exhibit "A," and is designated as such on a recorded Plat or conveyed by the Developer to an Owner, whether or not said Lot is improved with a Dwelling Unit. A Lot may include any portion or portions of any other Lots designated and described on the Plat when intended to be used together for one Dwelling. The word "Lot" may, when the context so requires, be used interchangeably herein with the words "Unit" or "Dwelling".

(q) "Member" shall mean and refer to those Owners entitled to membership as set forth in Article VII.

(r) "Notice" shall mean and refer to:

(i) Written notice delivered personally or mailed to the last known address of the intended recipient, in the manner set forth in the Bylaws of the Association; or

(ii) Notice published at least once each week for two consecutive weeks in a newspaper having general circulation in Pinellas County, Florida; or

(iii) Notice given in any other manner provided in the Bylaws of the Association.

(s) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot, which is a part of the "Land".

(t) "Plat" shall mean and refer to any recorded or unrecorded subdivision map or maps of all or a portion of the Land.

(u) "Property" shall mean and refer to the Land and any improvements constructed thereon.

(v) "Regulations" shall mean and refer to any rules or regulations respecting the use of the Land that have been adopted by the Association from time to time in accordance with its Articles of Incorporation and Bylaws.

(w) "Unit" shall mean and refer to a single family Dwelling Unit situated upon the Land. The word "Unit" may, when the context requires, be used interchangeably herein with the words "Lot" or "Dwelling".

(x) "Surface Water Management System" shall mean and include, and is not limited to, all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, flood plain compensation areas, wetlands and any associated buffer areas, wetland mitigation areas, under drains, outfall structures and related appurtenances.

## ARTICLE II - RESTRICTIONS

Section 2.01 - Lots. The Lots and Units shall be used for residential purposes only. No buildings or other improvements at any time situate on any Lot shall be used for any business, commercial, amusement, school, clubhouse, charitable, philanthropic or manufacturing purposes, or as a professional office. No building or other improvements situate on any Lot shall be rented or leased separately from the rental or lease of the entire Lot and no part of any such building shall be used for the purpose of renting rooms therein or as a boarding house, hotel, motel, tourist or motor court or any other type of transient accommodation.

Section 2.02 - Vehicular Parking. No vehicle shall be parked on any part of the Land, except on paved parking spaces, paved streets or in garages. No vehicles may be parked on paved streets over night. No commercial vehicles, except those present on business, and no trailers, boats, trucks, (except sport utility vehicles), recreational vehicles, mobile homes or motorcycles may be parked in the Development unless parked inside garages and concealed from public view or as are approved by the Association. All vehicles parked within the Development must be in good condition and repair, and no vehicle, which does not contain a current license plate or which cannot operate under its own power shall be parked within the Development for more than twenty-four (24) hours, and no major repair of any vehicle shall be made within the Development, except if done inside the garage of the Unit.

**EACH PAVED DRIVEWAY THAT ADJOINS A UNIT SHALL BE LIMITED COMMON AREA APPURTENANT TO THAT UNIT AND THE EXCLUSIVE USE OF WHICH SHALL BE RESERVED TO THE OWNER OF SAID UNIT AND HIS GUESTS AND INVITEES, SUBJECT TO RULES AND REGULATIONS THAT MAY BE ADOPTED BY THE ASSOCIATION FROM TIME TO TIME. NO GARAGE SHALL BE PERMANENTLY ENCLOSED OR CONVERTED TO A USE OTHER THAN FOR THE PARKING OF VEHICLES WITHOUT THE SUBSTITUTION OF ANOTHER ENCLOSED GARAGE UPON THE LOT AND THE APPROVAL OF THE ASSOCIATION. ALL GARAGE DOORS SHALL REMAIN CLOSED EXCEPT WHEN ENTERING OR EXITING THE GARAGE.**

Section 2.03 - Unit Plates and Mailboxes. A mailbox and the number of the residence shall be centrally located for all Units in the Common Area. The size, location, design, style and type of material for each such mailbox and number of the residence shall be as designated by Developer or approved by the Architectural Review Board. Except for name plates of uniform size and design approved by the Architectural Review Board, no Owner may cause any name plate to be affixed to any Unit, which may be seen from the Common Area.

Section 2.04 - Signs. Except for one "For Sale" sign not to exceed 2 by 3 feet in size and installed in the ground and not attached to a building. No sign of any character shall be displayed or placed upon any Lot, except as such may be approved by the Architectural Review Board. The Association may enter upon any Lot and summarily remove and destroy any signs erected in violation of this paragraph.

Section 2.05 – Aerials/Dishes. No exterior radio or television mast, tower, pole, wire, aerial, satellite receiving station or dish, antenna or appurtenances thereto, nor any other exterior electronic or electromagnetic radiation equipment, structures, devices of any kind shall be installed or maintained

on the exterior of any Dwelling or on any portion of any Lot, except as may be approved by the Architectural Review Board. Notwithstanding the foregoing, Unit Owners are permitted to have a video antennae device or DBS satellite dish in accordance with the Federal Communications Commission (FCC) Rules Governing Over The Air Reception Devices (OTARD) and these regulations which are as follows:

(a) No dish may exceed 18” in diameter. Diameter is measured across the widest part of the dish or any other antennae device.

(b) The dish must only be installed within the Dwelling including any balcony or porch appurtenant thereto. It is prohibited to install the dish or device on the roof, on outside walls of the building, outside window sills or other common areas or on the balcony or porch railing.

(c) The dish or device must be secured in such a manner that it will not become dislodged.

(d) The dish or device must meet the technical requirements of having a clear, unobstructed view of the Southwestern sky in order to receive the signals necessary for viewing television programming. The dish or device may not be installed in any way so as to extend beyond the outside of the balcony or porch railing for the purpose of positioning the dish or device to receive a clear and unobstructed view of the southwestern sky.

(e) In compliance with the FCC’s OTARD rules the Association advocates that unit owners have such dish or device installed by a professional installer. Installation should include the use of a Flat Link or Glass Link cable as the connecting device that will permit the closing of doors while at the same time permitting transmission of the video signal.

(f) In accordance with the FCC rules and regulations regarding the illegal use of inside cable wiring and signal leakage, and in accordance with the compliance restrictions imposed by the Association’s current video (cable) operator; the cable extending from the dish, device or dish set top receiver shall not be connected to any existing cable outlets or external cable access boxes in the unit or elsewhere on the premises.

Section 2.06 - Electrical Interference. No electrical machinery, devices or apparatus of any sort shall be used or maintained in any Dwelling which causes interference with normal telephone, television or radio reception of any other Dwellings.

Section 2.07 - Animals. No horses, mules, ponies, donkeys, burros, cattle, sheep, goats, swine, rodents, reptiles, pigeons, pheasants, game birds, game fowl, poultry or guineas shall be kept, permitted, raised or maintained on any Lot, except as permitted in this Section. No pitbull terriers or other animals considered a dangerous breed by governmental ordinance are permitted within the Development. However, household pets may be kept on a single Lot for the pleasure and use of the occupants provided that no more than two (2) such pets are allowed to be maintained at any given time on a Lot or in a Unit, and, provided further, that if any of such pets shall, in the sole and exclusive opinion of the Association, become dangerous or an annoyance or nuisance in the Development, the consent may be withdrawn and they may not thereafter be kept in the Development.

Section 2.08 - Nuisances. No illegal, noxious or offensive activity shall be permitted or carried on any part of the Land or Development, nor shall anything be permitted or done thereon which is or may become a nuisance or a source of embarrassment, discomfort or annoyance to the neighborhood or Development. No Occupant may play or suffer to be played any musical instrument, tape player, CD player, phonograph, radio, television or other similar electronic device in a Unit between the hours of 11:00 P.M. and the following 8:00 A.M., if the same shall in any manner disturb or annoy the other occupants of the Development. No trash, garbage, rubbish, debris, waste material, or other refuse shall be deposited or allowed to accumulate or remain on any part of the Land, nor upon any land or lands contiguous thereto. No fires for the burning of trash, leaves, clippings or other debris or refuse shall be permitted on any part of the Land. No bicycles, cars, trucks, vehicles, tricycles, scooters, wagons, carriages or other items of personal property shall be parked or permitted to stand for any period of time on the Common Area, except in areas designated for such use by the Association.

Section 2.09 - Occupancy. No unit in this Development shall be permanently occupied by more than two individuals per bedroom.

Section 2.10 - Clothes Lines. There shall be no exterior clothes lines or clothes poles erected, and no outside clothes drying is permitted, except where such activities are advised or mandated by governmental authorities for any energy conservation purposes, in which event the Association shall have the right to approve the portions of any Lot used for outdoor clothes drying purposes and the types of devices to be employed in this regard, which approval must be in writing. No clothing, bedding or other similar items shall be hung over or on any windows, doors, walls or fences if the same is visible from any street.

Section 2.11 - Mechanical Equipment. All exterior mechanical equipment, including, but not limited to, transformers, vents, air conditioning compressors, pool pumps, meters, storage tanks, including, but not limited to, those used for the storage of water, gasoline, oil or other liquid or any gas, and the like, shall be located in the rear of the Unit and concealed from public view by walls of the same material and color as the building exterior or by an opaque landscaping screen. No solar heater shall be allowed or visible from any street unless otherwise approved by the Architectural Review Board.

Section 2.12 - Regulations. Reasonable rules and regulations concerning the appearance and use of the Land may be made and amended from time to time by the Developer or the Association as successor to the Developer in the manner provided by the Articles of Incorporation and Bylaws. Copies of the Rules and Regulations and amendments thereto shall be furnished by the Association to all Owners and residents of the Land upon request.

Section 2.13 - Mining. No oil or natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted upon any Lot and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot; nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on any Lot.

Section 2.14 - Casualties. In the event a Dwelling or any part thereof is damaged or destroyed by fire, casualty or otherwise, or in the event any improvements upon the Common Area are damaged or destroyed by casualty or otherwise, the Owner thereof or the Association, as the case may be, shall promptly clear all debris resulting therefrom and commence either to rebuild or repair the damaged improvements in accordance with the terms and provisions of the Declaration, or in the

case of the Common Area, to grass over and landscape the land previously underlying the improvements in a manner consistent with the surrounding area.

Section 2.15 - Reconstruction. Any repair, rebuilding or reconstruction on account of casualty or other damage to any Dwelling or Common Area, or any part or parts thereof, shall be substantially in accordance with the plans and specifications for such property and areas as originally constructed except as may be modified to comply with the then current building codes, or with new plans and specifications approved by the Association.

Section 2.16 - Lighting. All exterior lighting shall be consistent with the character established by the Developer for the Development or, as approved by the Architectural Review Board, and shall be limited to the minimum necessary for safety, identification and decoration. The exterior lighting of buildings for security or decoration shall be of a style and type compatible with the building design and materials. The source of lighting shall not be visible from streets or other Common Areas and no colored lenses or lamps are permitted.

Section 2.17 – Refuse and Garbage. All garbage and refuse shall be placed in containers or receptacles supplied by the designated trash collection company and all wet garbage or loose trash deposited in said receptacles shall first be placed in suitable bags, which shall be securely tied.

Section 2.18 - Exterior Alterations. No Owner, other than the Developer, may change, touch up or modify the exterior of the Dwelling on a Lot, including painting, without the prior written consent of the Architectural Review Board.

Section 2.19 - Window Treatments. Window treatments shall consist of draperies, blinds, shutters or other tasteful window coverings, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one (1) week after an Owner moves into a Unit or when permanent window treatments are being cleaned or repaired.

Section 2.20 - Southwest Florida Water Management District. The Development is subject to certain regulations of the Southwest Florida Water Management District (“SWFWMD”) regarding surface water management to the requirements of the permit issued by SWFWMD for this Development. Construction of Dwellings or other structures must comply with the construction plans for the surface water management system of the Development pursuant to Chapter 40D - 4, F.A.C., which is approved and on file with SWFWMD.

Section 2.21 - Amendments and Modifications by Developer. Notwithstanding any provisions of these restrictions to the contrary, the Developer, its successors and designated assigns, reserves the right, until such time as the Developer relinquishes control of the Architectural Review Board as provided hereafter, to amend, modify or grant exceptions or variances from any of the restrictions set forth in this Article II without notice to or approval by any Lot Owners of the Development or the Association.

Section 2.22 – Basketball Goals. A permanent installation of a basketball goal and hoop is prohibited on any Lot without the approval of the Association. The use of temporary goals and hoops is permitted provided that at the end of each day the device is relocated to inside the Dwelling and is not visible from the exterior of the Dwelling.

Section 2.23 – Planting and Landscaping. No Owner shall have any right to plant any bush, tree, shrub, flowers, plants or other type of landscaping of any type on their Lot outside of the Dwelling.

Section 2.24 – Gates. It is not contemplated, at this time, that a gate or gates will be constructed within the Development to limit access to the Development. If any such gates are subsequently constructed than any and all such gate or gates along with any fences that are erected around the perimeter of the Development shall be maintained by the Association. Owner, their licensees, invites and guests hereby waives and releases the Association and Developer from any liability, claim or cause of action whatsoever arising out of, related to or in connection with any unauthorized or improper entry into the Development by any means whatsoever, including but not limited to the failure to close, lock or maintain the gate or fence or from any person, vehicle, entity, service person or vehicle being delayed or prevented from entering the Development or being able to arrive at any Lot or otherwise assist any Owner.

Section 2.25- Ordinances. Every Owner, their licensees, guests, invitees and tenants, shall at all times abide by all county or other governmental ordinances, including, but not limited to, ordinances with regard to pets and leashes, parking ordinances, and ordinances regarding conduct.

Section 2.26- Proviso. Provided, however, that until Developer has completed all of the contemplated improvements and closed the sales of all of the Lots, neither the Owners nor the Association nor the use of the Land shall interfere with the completion of the contemplated improvements and the sale of the Lots and Units. Developer may make such use of the unsold Lots, Units and Common Area without charge as may facilitate such completion and sale, including, but not limited to, maintenance of a sales office, construction office, models, the showing of the Land and the display of signs and the use of Lots as parking lots, notwithstanding anything contained herein to the contrary.

### ARTICLE III - UTILITIES, EASEMENTS AND ROADS

Section 3.01 - Easements. Perpetual easements (herein called “Easements”) for the installation or maintenance of utilities, including storm sewer, sanitary sewer, gas, electricity, water, telephone, cable television and other utilities of every kind and nature now or hereafter constituting utilities (herein generally referred to as “Utilities”) preservation areas and drainage areas are hereby reserved to the Developer and City of Clearwater in and to all utility easement, preservation and drainage easement areas (herein called “Easement Areas”) shown on the Plat, which Easements shall include, without limitation, the right of reasonable access over Lots to and from the Easement Areas; and the Developer and City of Clearwater shall have the right to convey such Easements on an exclusive or nonexclusive basis to any person, corporation or governmental entity (herein called “Utility Providers”) and who shall furnish Utilities or services to the Development. Neither the Easement rights reserved pursuant to this paragraph, nor as shown on the Plat, however, shall impose any obligation on the Developer to maintain such Easement Areas or to install or maintain the Utilities or any retention or detention areas (hereinafter defined), nor any pipes, lines, culverts, channels or other facilities or improvement that may be located on, in or under such Easements, or which may be served by them within Easement Areas. No structure, irrigation system, planting or other material shall be placed or permitted to remain which may damage or interfere with access to, or the installation and maintenance of, the Easement Areas or any Utilities or drainage facilities, or which may change the direction of flow or obstruct or retard the flow of water through drainage channels in any Easement Area, or which may reduce the size of any water retention areas (herein referred to as



“Retention or Detention Areas”) which are shown on the Plat or which may be constructed in such Easement Areas.

Section 3.02 - Roads and Access Easement. Developer hereby grants and conveys to the Owner of each and every Lot in the Development, their heirs, personal representatives, successors and assigns, a perpetual, non-exclusive easement appurtenant to each Lot within the Development for the purpose of ingress and egress by pedestrian and vehicular traffic over and across each and every road as defined hereafter; reserving, however, unto the Developer the unrestricted right to grant like non-exclusive easements over the same roads and to grant easements for utilities to utility companies and public bodies for public utility services within the Development in the same roads which are subject to this grant.

The term road as used herein to describe the servient tenement which is impressed with the easement shall include all roads, lanes, streets, drives, sidewalks and paths as the same may be shown on the Plat or exist from time to time over, through, across and upon the Land, as the same may from time to time be paved and intended for such purposes.

Ownership by Developer of both the Lots benefited by the easement granted and created herein and of the roads, which are subjected to said easement shall not cause any merger or impairment of said easement.

Every deed from Developer of any Lot in the Development shall automatically carry with it as an appurtenance to such Lot the easement hereby created, whether or not specifically mentioned in any such deed, and this easement shall thereafter run with title to said Lot in perpetuity.

Section 3.03 - Easement for Governmental, Health, Sanitation and Emergency Services. A non-exclusive easement is hereby granted to the appropriate governmental authorities and to the appropriate private organizations supplying health, sanitation, police services and any emergency service, such as fire, ambulance and rescue services, for the purpose of ingress and egress of pedestrian or vehicular traffic over and across the Common Area and each Lot.

Section 3.04 - Reciprocal Easements. There shall be reciprocal, appurtenant easements between each Lot and such portion or portions of the Common Area adjacent thereto, or between adjacent Lots, or both, for lateral and subjacent supports; for electrical, plumbing, sewer, telephone, cable, drainage and other convenience or utility servicing more than one Lot; for overhanging roofs and eaves installed by Developer and for replacement thereof; and for encroachments caused by the willful construction, reconstruction, repair, settling or shifting of any improvements constructed, reconstructed or altered thereon in accordance with the terms of this Declaration. The extent of said easements for lateral and subjacent supports and for overhangs shall be that reasonably necessary to effectuate the purposes thereof; and said easements of encroachment shall extend to a distance of not more than four (4) feet, as measured from any point on the common boundary along a line perpendicular to such boundary at such point. Notwithstanding the foregoing, in no event shall there be any easement for overhangs or encroachments if same is caused by the willful misconduct on the part of an Owner, tenant or the Association. Notwithstanding anything contained herein to the contrary, should electrical, plumbing, sewer, telephone, cable or other utility service to a Lot cross through or under another Lot (Adjacent Lot) and be in need of repair or replacement, this said repair or replacement shall not occur in the Easement in the Adjacent Lot if said repair or replacement

would in any way damage or interfere with the use and enjoyment of the improvements erected on said Adjacent Lot. In such event, the utility service shall be relocated in the Common Area.

Section 3.05 – Easement for Maintenance. The Developer hereby reserves to itself and grants to the Association a non-exclusive, perpetual easement as to the Land and any Lot to the extent reasonably necessary to discharge its duties of maintenance under this Declaration. Such right of entry shall be exercised in a peaceful and reasonable manner at reasonable times upon reasonable notice whenever the circumstances permit.

#### ARTICLE IV - PROPERTY RIGHTS

Section 4.01 - Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the rights of the Developer reserved herein and subject to the following provisions:

(a) The right of the Association to levy annual and special assessments and other fees for the use of any recreation facility, if any, situated upon the Common Area.

(b) The right of the Association to suspend the voting rights of a Member for any period during which any assessment against his Lot or Unit remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations. Notwithstanding anything contained herein to the contrary, assessments shall continue during any suspension period.

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public authority, agency or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of Members agreeing to such dedication or transfer has been recorded.

(d) The right of the Association, in accordance with its Articles and its Bylaws, to borrow money for the purpose of improving or increasing the Common Area and in aid thereof with the assent of two-thirds (2/3) of each class of Members to mortgage said properties. Said mortgage shall be subordinate to the Members' rights as provided hereinafter. In the event of a default upon any such mortgage, the Lender's rights hereunder shall be limited to a right, after taking possession of such area, to charge admission and other fees as a condition to continued enjoyment by the Members and, if necessary, to open the enjoyment of such area to a wider public until the mortgage debt is satisfied, whereupon the possession of such area shall be returned to the Association and all rights of the Members hereunder shall be fully restored; provided that under no circumstances shall the rights of the Members of ingress, egress and parking be affected.

(e) The right of the Association to take such steps as are reasonably necessary to protect the Common Area against an attempted foreclosure.

(f) The right of the Association to grant access to police, fire and other public vehicles.

(g) The right of the Developer, without approval of the Association or the Membership, to dedicate easements and rights-of-way over the Common Areas in accordance with the terms of this Declaration.

(h) The right of the Association to adopt and enforce at any time rules and regulations governing the use of the Common Area and all facilities situated thereon, including the right to assess late fees against Members as provided hereafter, which rules and regulations shall apply until rescinded or modified as if originally set forth at length in this Declaration.

(i) The right of the Developer to complete construction of and installation of all roads, sewer lines, water lines, storm water drainage and other utilities.

Section 4.02 - Delegation of Use. Any Member may delegate his right of enjoyment to the Common Area and facilities to the Members of his family, to his guests and to his tenants, subject to such rules and regulations as the Board of Directors may from time to time adopt; provided, however, that there shall be no abrogation of the duty of any Member to pay assessments as provided in Article VIII.

Section 4.03 - Limitation Upon Use of Common Areas. No Owner may plant, erect or maintain any fences, hedges, walls or other improvements upon the Common Area. The Board of Directors of the Association may establish reasonable rules and regulations concerning the use of the Common Area.

Section 4.04 – Density Reservation. THE LAND MAY HAVE MORE DENSITY UNITS ALLOCATED TO IT THAN THE DEVELOPER INTENDS TO CONSTRUCT. ANY EXCESS OR UNUSED DENSITY UNITS OR DENSITY ALLOCATION IS RESERVED TO DEVELOPER EXCLUSIVELY AND IS FREELY TRANSFERABLE OR MAY BE UTILIZED BY DEVELOPER WITHOUT ANY CONSENT OF THE ASSOCIATION OR ANY OWNER. THE ASSOCIATION AND OWNERS SHALL HAVE NO RIGHTS WHATSOEVER IN ANY UNUTILIZED DENSITY. NO FUTURE AMENDMENT OR MODIFICATION OF THIS PROVISION SHALL BE BINDING ON THE DEVELOPER WITHOUT THE DEVELOPER'S WRITTEN CONSENT.

Section 4.05 – Service Provider Limitations. Agreements have or will exist for various services with various entitles for various services such as Bulk Standard Services including cable channel video services. In each case the provider shall have certain rights of access to install repair and replace, monitor equipment in connection with its services. All Owner's rights are subject to these agreements and the easements and rights granted to each provider therein and each owner shall comply with the same and acknowledges that the Lot, Unit and Owner's rights are subject to the same.

## ARTICLE V - ARCHITECTURAL CONTROL

Section 5.01 - Members of the Board and Term of Office. The Association shall have an Architectural Review Board (the "ARB") consisting of three (3) members. The Developer shall be entitled to appoint the initial members to the ARB and replacements thereof until such time as the Developer has approved the plans and construction of improvements for the last Dwelling to be constructed on the Land. Thereafter, each member of the ARB shall be appointed by the Board of Directors and shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. The Board of Directors shall have the right to

appoint and remove (either with or without cause) any and all members of the ARB at any time, except for members of the ARB appointed by the Developer.

Section 5.02 - Review of Proposed Construction.

(a) Except for the exemption in Section 9 below, no building, fence, wall or other structure or improvement (including landscaping) shall be commenced, painted, erected or maintained on the Land, nor shall any addition, change or alteration visible from the exterior 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, color and location of the same shall have been submitted to and approved in writing by the ARB.

(b) The ARB shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will:

i) assure harmony of external design, materials and location in relation to the surrounding buildings and topography within the Development; and

ii) protect and conserve the value and desirability of the Development as a residential community; and

iii) be consistent with the provisions of this Declaration; and

iv) be in the best interest of the Association and maintain the value and desirability of the Development as a residential community; and

v) comply with such other specific designing criteria that the ARB may adopt from time to time.

(c) The ARB 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 ARB may also issue rules or guidelines setting forth procedures for the submission of plans for approval. The ARB 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.

(d) Until receipt by the ARB of any and all required plans and specifications, the ARB may postpone review of any plans submitted for approval. The ARB shall have thirty (30) days after delivery of all required materials to approve or reject any such plans, and if not rejected within such thirty (30) day period, said plans shall be deemed approved.

(e) The ARB herein shall be the ultimate deciding body and its decisions shall take precedence over all others. All changes and alterations shall also be subject to all applicable permit requirements and to all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees.

Section 5.03 - Meetings of the ARB. The ARB shall meet from time to time as necessary to perform its duties hereunder. The ARB may from time to time, by resolution unanimously adopted in writing, designate any ARB 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 ARB, 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 ARB shall constitute an act of the ARB.

Section 5.04 - No Waiver of Future Approvals. The approval of the ARB 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 ARB, 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 other matters subsequently or additionally submitted for approval or consent.

Section 5.05 - Compensation. The members of the ARB shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder. The ARB, however, shall have the power to engage the services of professionals to serve as members of the ARB for compensation for purposes of aiding the ARB in carrying out its functions.

Section 5.06 - Inspection of Work and Occupancy. Inspection of work and correction of defects therein and permanent occupancy of a Dwelling shall proceed as follows:

(a) Upon the completion of any work for which approved plans are required under this Article V, the applicant (the "Applicant") shall give written notice of completion to the ARB.

(b) Within thirty (30) days after receipt of the notice of completion, the ARB or its duly authorized representative may inspect such improvements. If the ARB finds that such work was completed in substantial compliance with the approved plans, it shall so notify the Applicant in writing and permanent occupancy of the improvement shall be granted. If the ARB finds such work was not completed in substantial compliance with the approved plans, it shall notify the Applicant in writing of such noncompliance, specifying the particulars of noncompliance and requiring the Applicant to remedy the same. The ARB shall notify the Applicant within said thirty (30) day period of its approval or disapproval.

(c) If, upon the expiration of thirty (30) days from the date of such notification of noncompliance, the Applicant shall have failed to remedy such noncompliance, the ARB shall notify the Board in writing of such failure. The Board shall then determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same.

(d) If a noncompliance exists, the Applicant shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board ruling. If the Applicant does not comply with the Board ruling within such period, 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. 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.

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

(f) Permanent occupancy of any improvement for which approved plans are required under this Article V shall be prohibited until such time as a noncompliance has been remedied. This provision shall be enforceable regardless of whether a certificate of occupancy has been issued to the Applicant for the subject improvement.

Section 5.07 - Non-Liability of ARB Members. Neither the ARB nor any member thereof, nor its duly authorized ARB representative, shall be liable to the 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 or nonperformance of the ARB's duties hereunder, unless due to the willful misconduct or bad faith of a member and only that member shall have any liability. The ARB shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition on the basis of aesthetic considerations, the overall benefit or detriment which would result to the immediate vicinity and to the Land, and for compliance with the design review criteria. The ARB 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.

Section 5.08 - Variance. The ARB may authorize variances from compliance with any of the design review criteria 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 ARB. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provisions covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the Owner's use of the premises.

Section 5.09 - Developer's Exemption. The Developer shall be exempt from the provisions of this Article V with respect to the initial construction of the dwellings and other improvements on the land and any alterations and additions to be made by Developer and shall not be obligated to obtain ARB approval for any construction or changes in construction which the Developer may elect to make at any time.

Section 5.10 - Attorneys' Fees. For all purposes necessary to enforce this Article, the Association shall be entitled to collect reasonable attorneys' fees, court costs and other expenses against an Owner, whether or not litigation is instituted, and the Board may assess such amounts in the form of a Special Assessment.

## ARTICLE VI - INSURANCE

Section 6.01 - Insurance. The Association, through its Board of Directors, shall purchase an insurance policy(ies) insuring the buildings and other improvements erected upon the land, including all fixtures and personal property appurtenant thereto owned or used by the Association or constituting part of the Common Area and all Units/Dwellings contained on the land. Unit Owners shall maintain their insurance for the contents of their Units and those items that are hereafter excluded from the definition of "building". The insurance obtained by the Association shall insure the interest of the Association and all Owners and their Mortgagees, as their interest may appear against loss or damage by fire and hazards covered by wind storm and extended coverage endorsement and such other risk of a similar or dissimilar nature as customarily covered with respect to buildings similar in construction, location and use to the buildings erected upon the Common Area, in an amount which shall be equal to the maximum insurable replacement values, if such insurance is reasonably available. The directors shall have no liability to the Association or its members or any other person for failure to obtain insurance without a deductible clause or for the failure to obtain insurance in the full amount of the coverage required hereunder, if in good faith a majority of the membership of the Board shall determine that such insurance is not reasonably available. The Association, if the Development is designated to be in a flood area as identified by HUD pursuant to the Flood Disaster Protection Act of 1973, shall obtain the maximum flood insurance provided for by said Act or an amount equal to the value of the building(s) if the value of the building(s) is less than the maximum permitted by such Act. All Hazard Policies purchased to protect buildings shall provide that the word "building" wherever used in the policy shall include, but not be limited to, fixtures, installations or additions comprising the Dwellings and the building comprising the Dwellings as initially constructed or installed by the Developer or replacements of like kind or quality in accordance with original plans and specifications, or as existing when the Unit was first conveyed if the original plans and specifications are not available. The word "building" shall not include with respect to Units, floor, ceiling or wall coverings, electrical fixtures, appliances, air conditioning or heating equipment, water heaters, water filters, built in cabinets or countertops, and window treatments, including drapes, blinds, curtains, hardware and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of a Unit and serve only one Unit and all air conditioning compressors that serve an individual Unit, whether or not located within the Unit boundary. With respect to the coverage provided by this paragraph, the Unit Owners shall be considered as additional insureds under the policy.

Section 6.02 – UNIT OWNER’S INSURANCE. EACH UNIT OWNER SHALL BE OBLIGATED TO MAINTAIN INSURANCE ON THOSE PORTIONS OF HIS UNIT THAT ARE NOT BEING INSURED BY THE ASSOCIATION DESCRIBED IN SECTION 6.01 ABOVE IN AN AMOUNT EQUAL TO AT LEAST THE FULL INSURABLE VALUE AS TO THE LOSS OR DAMAGE BY FIRE OR OTHER CASUALTY AND HAZARDS COVERED BY WINDSTORM AND EXTENDED COVERAGE ENDORSEMENT AND SUCH OTHER RISK OF A SIMILAR OR DISSIMILAR NATURE AS CUSTOMARILY COVERED WITH RESPECT TO SAID IMPROVEMENTS. IN ADDITION, EACH OWNER SHALL BE OBLIGATED TO MAINTAIN LIABILITY INSURANCE AND INSURANCE INSURING HIS PERSONAL PROPERTY AGAINST LOSS. EACH OWNER SHALL BE REQUIRED TO FURNISH WRITTEN PROOF OF SUCH INSURANCE COVERAGE TO THE ASSOCIATION TOGETHER WITH A CERTIFICATE REQUIRING THIRTY (30) DAYS WRITTEN NOTICE TO THE ASSOCIATION OF CANCELLATION OR NON-RENEWAL OF SAID INSURANCE COVERAGE.

Section 6.03 - Mandatory Repair. Unless there occurs substantial damage or destruction to all or a substantial part of the Properties, and subject to the provisions hereinafter provided, the Association and the Unit Owners shall repair, replace and rebuild the damage caused by the casualty loss according to their responsibility to repair and maintain the property as provided in Article IX hereafter and the expense for said repair, replacement or rebuilding the damage caused by the casualty shall be borne by the Association with respect to Common Area property and each individual Unit Owner with respect to their Unit. For the purposes of this Article VI, the Properties shall include all of the buildings and other improvements erected upon the Land, all fixtures, personal property appurtenant thereto owned or used by the Association constituting part of the Common Area, and all Units or Dwellings located on the Land.

Section 6.04 - Determination of Damage and Use of Proceeds. Immediately after casualty damage to any part of the Common Area, the Association Board of Directors shall obtain reliable and detailed estimates of the cost necessary to repair and replace the damaged property to a condition as good as the condition existed prior to the casualty loss. If the net proceeds of insurance are insufficient to pay the estimated cost of reconstruction and repair, the Board of Directors shall promptly, upon determination of deficiency, levy a special assessment against all Owners for the deficiency related to the Common Area and against the individual unit owners for that portion of the deficiency related to individual damaged dwellings, pursuant to Article VIII hereafter; provided, however, that if, in the opinion of the Board of Directors, it is impossible to accurately and adequately determine the portion of the deficiency relating to individual dwellings, the Board of Directors shall levy the special assessment for the total deficiency against each of the Owners according to the manner in which the common expenses of the association are shared, except as provided as in section 6.07 below.

Unless there occurs substantial damage to or destruction of all or a substantial portion of the Property, and the Owners fail to elect to rebuild and repair as provided in Section 6.05 below, the proceeds collected from the insurance carrier and the funds collected by the Board of Directors from any assessment shall be disbursed to repair and replace any damage or destruction of property, and any balance remaining shall be disbursed to Owners and their Mortgagees, as their interests may appear. Any reconstruction or repair shall be performed substantially to the same design, plan and specification as originally built, except as may be modified to comply with the then current Building Code, unless the Architectural Review Board agrees to a modification or deviation from the original design, plan and specification.

Section 6.05 - Total Destruction. As used in this Declaration, total destruction or substantial damage to or destruction of all or a substantial portion of the Properties shall mean:

(a) With respect to all Dwellings and the Common Area, that two-thirds (2/3) or more of the Dwellings and two-thirds (2/3) of the improvements to the Common Area are or have been rendered untenable by such casualty loss or damage; or

(b) With respect to individual Dwellings, if one-half (1/2) or more of the Units in a discreet and separate residential building are or have been rendered untenable by such casualty loss or damage.

Should there occur total destruction or substantial damage to or destruction of all or a substantial part of the Properties, the improvements on the Property shall not be reconstructed unless



the majority of all of the Owners shall agree thereto in writing, within sixty (60) days after casualty loss or damage occurs. Should the substantial damage or destruction occur to less than two-thirds (2/3) of all Dwellings, then such buildings experiencing such degree of damage or casualty loss shall nevertheless be reconstructed if three-fourths (3/4) of the Owners owning Dwellings so damaged or destroyed shall agree to such reconstruction, in writing, within ninety (90) days after the casualty loss or damage occurs. The determination not to reconstruct after a casualty shall be evidenced by a certificate, signed by one or more of the officers of the Association, stating that the decision period has elapsed and that the Association has not received the necessary writings from the required number of Owners.

Section 6.06 – Association as Agent. The Association is hereby irrevocably appointed for each Owner as its agent to adjust all claims arising under insurance policies purchased by the Association and to execute releases thereof.

Section 6.07 - Repair and Reconstruction. Notwithstanding anything contained herein to the contrary in prior sections, each separate and distinct building shall, for the purposes of reconstruction and repair in the event of casualty loss, be treated as if the same were the only building in the Development to the effect that:

(a) All the insurance proceeds reasonably attributable to the damage or destruction to one such building shall be first used for the reconstruction and repair of that building, to the extent the proceeds are sufficient; and, in the event that such proceeds are not sufficient, the Owners in that building alone shall be assessed equally for any deficiency or insufficiency in the funds necessary to reconstruct or repair as contemplated.

(b) In the event that there shall be insurance proceeds in excess of the cost of reconstruction and repair of casualty loss to a given separate and discreet building, then the Board of Directors shall equally distribute and pay over any such excess to the Owners and their respective mortgagees as their interests may appear, in that separate and discreet building suffering such loss or damage.

(c) In the event there shall occur to a separate and discreet building the degree of damage or destruction described in Section 6.05(b), but the Development as a whole shall not have experienced a degree of damage, destruction or loss as set forth in Section 6.05(a), and the building suffering such damage or destruction shall have failed to elect to be repaired or reconstructed in accordance with the provisions of said Section, then the insurance proceeds reasonably attributable to that separate and discreet building shall be distributed equally to the Owners in that building and to their mortgagees as their interests may appear.

(d) Any reconstruction or repair shall be performed substantially to the same design, plan and specification as originally built, except as may be modified to comply with the then current Building Code, unless the Owners of a majority of the Dwellings so affected and the Architectural Review Board agree to a modification or deviation from the original design, plan and specification.

Section 6.08 - Liability Insurance. In addition to the above and foregoing insurance, the Association, through its Board of Directors, shall purchase and keep in effect a comprehensive public liability policy insuring the Association, its Board of Directors, officers and Owners against possible liability arising out of the use of the Common Area. Said policy shall be in an amount not less than One Million Dollars and 00/100ths (\$1,000,000.00) combined single limit (bodily injury and property

damage). The Association shall further, if required by state law, carry a worker's compensation insurance policy, which policy will comply with the requirements of the laws of the State of Florida.

Section 6.09 - Cost of Insurance. The cost of all insurance purchased by the Association as described above shall be a common expense of the Association included in the assessments to be collected pursuant to Article VIII.

## ARTICLE VII - MEMBERSHIP AND VOTING RIGHTS

Section 7.01 - Members. Every Owner of a Lot shall be a member of the Association as designated in Section 7.02 of this Article. Membership shall be appurtenant to and may not be separated from ownership of a Lot which is subject to assessment or from occupancy of a Unit.

Section 7.02 - Membership Classes and Voting Rights. The Association shall have the following two (2) classes of voting membership:

(a) Class A. Class A Members shall be all Owners, except the Developer for so long as the Developer retains Class B voting rights as defined herein, of Lots and shall be entitled to one (1) vote for each such Lot so owned.

(b) Class B. The Class B Member shall be the Developer and shall be entitled to nine (9) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in Class A Membership equals or exceeds the total votes outstanding in the Class B Membership.

Section 7.03 - Joint Owners. When more than one person holds an interest in any Lot, all such persons shall be members of the Association; provided, however, that Owners' vote shall be exercised as provided above or as all such persons among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot not owned by the Developer.

## ARTICLE VIII - ASSESSMENTS

Section 8.01 - Purpose of Assessment. The Association shall have the authority to levy assessments against each Lot or Unit to be used exclusively to promote the recreation, health, safety and welfare of the resident in the Development and for the improvement and maintenance of the Common Area, and those portions of each Lot/Dwelling that the Association is required or entitled to maintain or repair, and those easement areas to be maintained by the Association, including, but not limited to, cost of repair, replacement and additions thereto; cost of labor, equipment, materials, management and supervision thereof; the payment of taxes assessed against the Common Area; the procurement and maintenance of insurance; the employment of attorneys, accountants and other professionals to represent the Association when necessary or useful; the employment of security personnel; the cost of insurance acquired pursuant to Article VI; and such other needs as may arise.

Section 8.02 - Creation of Lien. In order to carry out the purposes and obligations hereinafter stated, the Association, by action of its Board of Directors, and without approval of the members except to the extent specifically provided herein, shall have the power to levy and collect assessments in accordance with this Declaration against each Lot. The Developer, for each Lot owned within the Development, hereby covenants, and each Owner of any Lot by acceptance of a deed thereto,

whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay to the Association: (1) annual assessment or charges, (2) special assessments for capital improvements, (3) special assessments for emergencies as needed for purposes other than as a capital improvement, and (4) specific assessments against any particular Lot which were established pursuant to the terms of this Declaration. All such assessments, together with interest, costs and reasonable attorneys' fees, shall constitute a lien upon the Lot against which each such assessment is levied and shall run with the land, and shall take priority from the date the notice of lien for delinquent assessments is filed in the Public Records of Pinellas County, which notice shall state the description of the Lot, the Owner's name, the amount due and the date due. The lien shall be prior to and superior in dignity to the creation of any homestead status but subordinate to any first mortgage as hereinafter set forth. Every Owner of a Lot hereby consents to the imposition of such lien prior to any homestead status until paid in full.

Section 8.03 - Special Assessments. In addition to the annual assessment authorized, the Association, through its Board of Directors, may levy in any assessment year a special assessment or assessments for capital improvement or emergency purposes, and any such assessment shall be approved by no less than two-thirds (2/3) of each class of Members.

Written notice of any meeting called for the purpose of making the levy of a special assessment requiring approval of the membership shall be sent to all Members not less than ten (10) days nor more than thirty (30) days in advance of the meeting.

In addition to all other remedies provided in this Declaration, the Board of Directors, in its sole discretion, may levy a special assessment upon an Owner for failure of the Owner, his family, guests, invitees or employees, to comply with any provision of this Declaration or the Articles, Bylaws or rules and regulations of the Association, provided that the following procedures are followed:

(a) The Association shall notify the Owner of the infraction or infractions. The notice shall include the date and time of the next Board of Directors meeting at which the Owner shall have the right to present testimony as to why the Special Assessment should not be imposed.

(b) The noncompliance shall be presented to the Board of Directors at the meeting described in the notice. At such meeting, a hearing shall be conducted to obtain testimony as to the levying of a Special Assessment in the event that it is determined that a violation has in fact occurred. A written decision of the Board of Directors shall be submitted to the Owner not later than twenty-one (21) days after the hearing.

(c) The Board of Directors may impose the following Special Assessments against the Owner of the Lot in the event a violation is found:

(i) First Noncompliance Violation. A Special Assessment in an amount not in excess of \$100.00.

(ii) Second Noncompliance Violation. A Special Assessment in an amount not in excess of \$500.00.

(iii) Third and Subsequent Non-compliance Violation or Violations which are of a Continuing Nature. A fine in an amount not in excess of \$1,000.00 for each violation.

(d) A Special Assessment as provided in this Article shall be due and owing not later than thirty (30) days after the written decision as provided in Section (b) above.

Section 8.04 - Annual Assessments. Annual assessments shall be determined for each Lot by the Board of Directors of the Association prior to January 1st of each year for all assessable property by determining the sum necessary to fulfill the obligations and purpose of said assessment. Written notice of the annual assessment shall then be sent to every Owner subject thereto and the due date shall be established by the Board of Directors, which may be monthly, quarterly or on an annual basis. The Association shall, upon request and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. Notwithstanding anything contained herein to the contrary, the Developer shall not be obligated to pay any annual assessments for each Lot that it owns as long as the Developer is a Class B Member.

Section 8.05 - Uniform Rate of Assessment. Both annual and special assessments shall be fixed at a uniform rate for each Lot and may be collected on a monthly, quarterly or annual basis.

Section 8.06 - Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to each Lot at the time of the closing of the purchase of a Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The due dates for assessments shall be established by the Board of Directors of the Association.

Section 8.07 - Remedies of the Association for Nonpayment of Assessments. In addition to the foregoing remedies, the Board of Directors may assess a "late fee" of 20% of the delinquent assessment for each Periodic or Special Assessment which is more than ten (10) days delinquent. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum legal rate. The Association may bring an action at law against the Owner personally obligated to pay the same, or file a lien as hereinabove authorized and foreclose said lien by judicial foreclosure in the same manner in which mortgages on real property may be foreclosed in Florida. In any such foreclosure, the Owner shall be required to pay the costs and expenses of filing the notice of lien and all reasonable attorneys' fees, which costs, expenses and attorneys' fees shall be secured by the lien being foreclosed. The Owner shall also be required to pay the Association any assessments against the Lot which become due during the period of foreclosure. The Association shall have the right and power to bid at foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the Lot as Owner thereof. No Owner may waive or otherwise escape liability for the assessments provided herein by nonuse of the Common Areas. Any suit to recover money judgment for unpaid expenses and assessment hereunder shall not be deemed to be a waiver of the lien securing the same. Upon payment of all sums secured by the lien, which has been the subject of a recorded notice of lien, a release of notice of lien shall be executed by the Association or its representative and recorded in the Public Records of Pinellas County, Florida.

Section 8.08 - Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any Institutional Lender recorded prior to the time of

recording a notice of lien. The sale or transfer of any Lot shall not affect the assessment lien. Any Institutional Lender which obtains title to a Lot as a result of foreclosure of a first mortgage thereon or by voluntary conveyance in lieu of such foreclosure, shall not be liable for the assessments pertaining to such Lot or chargeable to the former Owner thereof which became due prior to the acquisition of title by said Institutional Lender. Such unpaid assessments shall be deemed a common expense of the Association and collectible from all Owners, including the acquiring Institutional Lender, its successor or assign. Any such transfer to or by an Institutional Lender shall not relieve the transferee of responsibility nor the Unit from the lien for assessments made thereafter. No sale or transfer shall release such Lot from liability for any assessment thereafter becoming due.

Section 8.09 - Exempt Property. All properties dedicated to and accepted by a public authority and all properties owned by the Association shall be exempt from assessments created herein.

Section 8.10 - Rights of Governmental Authorities. In the event any municipality or other governmental authority performs the obligations of the Association for the maintenance of any facilities or land within the "Development," then said municipality or governmental authority shall have legally enforceable liens against all land and each residential Unit in the "Development" and the same enforcement rights afforded the Association.

#### ARTICLE IX - TITLE TO COMMON AREA AND MAINTENANCE OF COMMON AREA AND LOTS

Section 9.01. The Developer may retain legal title to the Common Area until such time as it has completed improvements thereon and until such time as, in the opinion of the Developer, the Association is able to maintain the Common Area. The Developer shall convey and the Association shall accept such conveyance to the Common Area free and clear of all liens and encumbrances, except this Declaration and restrictions of record at the time of the conveyance of the Common Area to the Association, real and personal property taxes for the year in which the conveyance takes place, and any easements created or allowed by the terms of this Declaration.

Section 9.02. The Association shall be responsible for the exclusive management, control and maintenance of the Common Area and all improvements thereon, and shall keep the same in good, clean, attractive and sanitary condition, order and repair, and in particular, shall be responsible for maintenance for the Surface Water Management System located within the Development, whether on Common Area or a Lot.

Section 9.03. Each owner shall be responsible for the maintenance and repair of his Dwelling except those portions thereof that are hereinafter described to be maintained by the Association, which owner's responsibility shall include but not be limited to repair and replacement of windows, screens and glass and exterior doors, floor, ceiling or wall coverings, electrical systems, built-in cabinets and countertops, kitchen equipment, heating and air-conditioning equipment (whether located inside or outside of the Dwelling), hot water heater (together with electrical and plumbing elements associated therewith) water filters, appliances and any other contents of the Dwelling. Any maintenance and repair work or replacement done by Unit Owner to windows, screens, glass, exterior doors or the exterior of the dwelling shall conform to the existing design, color and quality of material replaced or repaired.

Section 9.04. In addition to the maintenance of the Common Area, the Association shall provide exterior maintenance upon each lot and the Dwelling located thereon as follows: paint, repair, replacement and care of roofs, gutters and down spouts (if any), exterior building wall systems, landscaping, irrigation system, sidewalks, driveways, paths or other improvements on each Lot outside of a Dwelling. For purposes of this paragraph, interior building wall system shall mean that portion of the exterior walls of the dwellings extending from the exterior of the vertical plane of the unfinished interior surfaces of the walls surrounding the perimeter of each dwelling to the exterior. For example; if the wall system is comprised of studs and an exterior surface and interior dry wall, the Association responsibility shall be the maintenance and repair from the dry wall to the exterior, including but not limited to, the drywall, the vertical studs, installation and the exterior surface of the wall system. The Unit Owner shall be responsible for the maintenance of paint, wallpaper or other covering applied to the interior surface of the exterior perimeter walls of the Unit as well as electrical switches, outlets and fixtures (including boxes) installed on the interior of said perimeter walls. The Association shall be responsible to maintain all portions of a Dwelling contributing to the support of the building in which the Dwelling is located, which portion shall include but not be limited to load bearing columns, floors and walls, including all conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services to the Dwelling (including, electrical power, water and sewer disposal) and all such facilities contained within a Dwelling which service part or parts of the Development other than the Dwelling within which contained. The Association shall also maintain all water and sewer lines located on a Lot and exterior to the Dwelling.

(a) Maintain the lawn, landscaping, irrigation system on each Lot; provided, however, that each Lot Owner shall be responsible for any reasonably required replacement of the lawn and landscaping of the Lot, whether such replacement is required due to freezes or other acts of God, normal plant life expectancy, negligence of the Lot Owner or otherwise. All such maintenance and replacement shall be performed so that the lawn, landscaping and irrigation system are kept in good, safe, healthy, neat and orderly appearance and condition, consistent with rules and regulations may be promulgated from time to time by the Association. As used herein, the term "landscaping" shall mean all plants, including vegetation, shrubs and trees that are planted in the ground and are not located within a dwelling or screened enclosure.

(b) Provide periodic pressure cleaning, painting and other minor cosmetic measures (but not repairs or replacements) of the exterior building surfaces, as originally installed by the Developer or replacements thereof consistent with the requirements herein. The Association shall also provide periodic pressure cleaning, painting and routine maintenance (but no repairs or replacements) of the perimeter fences and walls on each Lot as initially installed by the Developer or replacements thereof consistent with the requirements herein. With respect to perimeter walls initially installed by the Developer, the Association shall also be responsible for the repair and replacement of the same in addition to the responsibility for periodic pressure cleaning, painting and routine maintenance.

(c) Provide periodic pressure cleaning of the finished exterior surface of the roof, as originally installed, but not for repairs or replacement thereof.

All other maintenance, repair, refurbishment, and replacement of the exterior building surfaces, roof, fences and other improvements on the Lot shall be the responsibility of Owner, unless the Association elects to repair or replace the same, which it may, but is not obligated to so do. Nothing contained herein shall obligate the Association to make repairs or replacement of

improvements damaged by fire, windstorm, hail or other casualties; such repairs or replacement shall be the responsibility of the Owner of the Lot which suffers such damage.

Section 9.05. If after reasonable notice, the Owner of a Lot fails to maintain the Dwelling, the Lot or other improvements thereon as required herein, the Association may institute legal proceedings to enforce compliance, or may take any and all other lawful actions to remedy such violation, including, but not limited to, entering the Lot, dwelling unit or other Lot improvements, with or without notice or consent of the Owner or any tenant of the Lot, to maintain, replace or repair any item which in the business judgment of the Association may constitute a health or safety hazard to other property or residence and the Association shall have a lien against each Lot for the purposes of performing said work. In addition, if the Lot Owner fails to properly perform its obligations for maintenance, repair or replacement as required hereunder, the Association, may in its sole discretion, undertake the necessary maintenance, repair or replacement and assess the Lot Owner for the reasonable cost and expense of the work. The Association shall be entitled to the lien to secure the payment of these costs and expenses, which shall be deemed a special assessment against the Lot and the Lot Owner and collectible as provided in Article VIII hereof. Such lien shall not only secure the reasonable cost and expenses of performing said maintenance, repair or replacement, but also the reasonable attorney fees and other expenses of collection, if any.

#### ARTICLE X - PARTY WALLS

Section 10.01 - General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Units and placed on the dividing line between the Lots shall constitute a party wall; and, to the extent not inconsistent with the provisions of this Article, the applicable case law of the State of Florida regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 10.02 - Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of any such party wall shall be shared by the Owners who make use of the party wall in proportion to such use.

Section 10.03 - Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty and such destruction or damage is not covered by insurance, an Owner who has use of the party wall may restore it; and if the other Owners thereafter make use of the party wall, they shall contribute to the cost of restoration thereof in proportion to their use without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions.

Section 10.04 - Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act causes any party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 10.05 - Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land which comprises that Owners Lot and shall pass to such Owner's successors in title to said Lot.

Section 10.06 - Arbitration. In the event of any dispute arising concerning a party wall or under the provisions of this Article, each party shall choose one arbitrator and such arbitrators shall choose one

additional arbitrator, and the decision shall be by a majority of all the arbitrators and said decision shall be enforceable in any court of competent jurisdiction. Should any party refuse to appoint an arbitrator within ten (10) days after written request thereof, the Board shall select an arbitrator for the refusing party.

#### ARTICLE XI - TRANSFER, LEASING AND MORTGAGING OF LOTS

Section 11.01 - Sales. Prior to the sale or transfer of a Lot, any member desiring to sell or transfer shall first submit the name of the proposed purchaser and the contract of sale to the Board of Directors of the Association for their approval, or disapproval, which shall be given within thirty (30) days from the date of the submission of the contract of sale. If approved, the approval of the Board shall be in writing and executed in such a manner as to entitle it to be recorded in the Public Records of Pinellas County, Florida. If no action is taken within thirty (30) days, the transfer shall be deemed to have been approved by the Board of Directors.

If the transfer should be disapproved, the Directors shall have thirty (30) days from the date of disapproval within which to purchase the Lot on the same terms and conditions as contained in the contract of sale. If the Directors fail to exercise their option to purchase within said thirty (30) day period, then the member shall be free to sell and convey to the intended purchaser. If the Directors fail to act within thirty (30) days as above provided or fail to exercise their option within thirty (30) days as herein provided, they shall furnish a certificate to that effect in a form recordable in the Public Records of Pinellas County, Florida.

The provisions of this Section shall not be applicable to any sale made by the Developer or its assigns; to any sale or transfer made by an institutional mortgagee acquiring title as a result of the foreclosure of its mortgage or by voluntary acceptance of a transfer of title in lieu of such foreclosure; to a purchaser acquiring title in such foreclosure proceedings, or accepting title in lieu of foreclosure, or to sales made pursuant to order or decree of court in connection with the foreclosure of an institutional first mortgage.

Section 11.02 - Leasing. No unit shall be leased or rented by the respective Unit Owner thereof for a term of less than one (1) year. Other than for the foregoing and except with respect to those Units subject to the lease prohibition as provided in Article XVI hereafter with regard to Units subject to the Affordable Housing Restrictions, the Owner or Owners of the respective Units shall have the right to lease the same provided that all such leases are approved by the Association and are made subject to this Declaration, the Articles of Incorporation, Rules and Regulations, and the Bylaws of the Association. The Board of Directors shall adopt reasonable rules regarding the review and approval or disapproval of proposed leases. In the event the Association does not approve a particular lease, then the lease shall be of no force and effect and the proposed lessee shall not be allowed to occupy the unit pursuant thereto. The Board of Directors may adopt reasonable rules regarding the use of Units and the common elements by lessees of Units that are more restrictive than the rules that govern the use by Unit Owners. If a lessee violates any of these rules or any other rules of the Association or any term of this Declaration or its exhibits, in addition to any other rights that it may have, the Association has the right to evict the lessee from the Unit and, for the purposes thereof, each Unit Owner, by accepting title to a Unit in this Development authorizes the Association to act on his behalf as his agent in any action brought to evict a lessee under this paragraph. In the event that the Association evicts any lessee or otherwise takes any action to enforce the rules of the



Development or the Association, the Board of Directors and the other Unit Owners shall not be liable to the lessee/owner for any loss or damages suffered, arising from or connected therewith.

Section 11.03 - Mortgages. An Owner of a Lot may not mortgage his Lot or any interest therein without the approval of the Association, except to an Institutional Lender as defined in Section 1.01(m) hereof.

## ARTICLE XII - REMEDIES

Section 12.01 - Violations. Whenever there shall have been built, or there shall exist on any Lot, any structure, building, thing or condition which is in violation of the Covenants, Association shall have the right, but not the obligation, to enter upon the property where such violation exists and summarily to abate and remove the same, all at the expense of the Owner of such property, which expense shall be payable by such Owner to Association on demand, and such entry and abatement or removal shall not be deemed a trespass or make Association liable in any way to any person, firm, corporation or other entity for any damages on account thereof.

Section 12.02 - Special Assessment for Noncompliance. In addition to the above remedies, there may be levied a Special Assessment for noncompliance as described in Article VIII, Section 8.03 of this Declaration.

## ARTICLE XIII - MISCELLANEOUS

Section 13.01 - Approvals. Wherever in the Covenants the consent or approval of Developer is required to be obtained, no action requiring such consent or approval shall be commenced or undertaken until and after a request in writing seeking the same has been submitted to and approved in writing by Developer. In the event Developer fails to act on any such written request within thirty (30) days after the same has been submitted to Developer as required above, the consent or approval of Developer to the particular action sought in such written request shall be conclusively and irrefutably presumed. However, no action shall be taken by or on behalf of the person or persons submitting such written request which violates any of the Covenants herein contained.

Section 13.02 - Assignments. Developer shall have the sole and exclusive right at any time and from time to time to transfer and assign to any person, firm or corporation, including, but not limited to, the Association, any or all rights, powers, easements, privileges, authorities and reservations given to or reserved by Developer by any part or paragraph of the Covenants or under the provisions of the Plat. If at any time hereafter there shall be no person, firm or corporation entitled to exercise the rights, powers, easements, privileges, authorities and reservations given to or reserved by Developer under the provisions hereof, the same shall be vested in and be exercised by a committee to be elected or appointed by the Owners of a majority of the Lots. Nothing herein contained, however, shall be construed as conferring any rights, powers, easements, privileges, authorities or reservations in said Committee, except in the event aforesaid.

Section 13.03 - Developer's Rights. Developer reserves and shall have the sole and exclusive right:

(a) To modify and amend these Covenants as may be required by any governmental authority or as may be required by the Federal National Mortgage Association, or other insurer of

first mortgages upon the Units or Lots without acquiring the approval or joinder of any other Unit Owner or mortgagee.

(b) To amend, modify or grant exceptions or variances from any of the use restrictions set forth in Article II of this Declaration of Covenants, Conditions and Restrictions without notice to or approval by other Owners or mortgagees.

(c) To amend these Covenants for the purpose of curing any error or ambiguity in or any inconsistency between the provisions contained herein without acquiring the approval or joinder of any other Unit Owner or mortgagee.

(d) To include in any contract, deed, sublease agreement or other instrument hereafter made any additional covenants and restrictions applicable to the Land which do not lower the standards of the Covenants.

(e) Notwithstanding anything contained herein to the contrary in this Declaration, the Articles of Incorporation or Bylaws, the Developer shall be entitled to use any unsold Unit as an aide in selling Units or as a sales office, construction office, or parking lot, and shall further be allowed to place on the Development signs advertising the sale of Units, construction trailers and sales trailers. The Developer shall further have the right to complete construction of all improvements to the Common Area contemplated by its development plan and to transact, on the Development, any business to consummate the sale of Units, and all sales office and model furniture shall not be considered Association property and shall remain the property of the Developer.

(f) To amend this Declaration to add additional property to be subject hereto, and which shall be developed in a similar manner as the property described in Exhibit A, which annexation shall be accomplished by the Developer executing and recording in the Public Records of the County in which the subject property is located an amendment executed solely by the Developer.

Section 13.04 - Additional Covenants. No Owner, without the prior written approval of Developer, may impose any additional covenants or restrictions on any part of the Land shown on the Plat.

Section 13.05 - Termination. These Covenants, Conditions and Restrictions, as amended and added to from time to time, and as provided for herein, shall, subject to the provisions hereof and unless released as herein provided, be deemed to be covenants running with the title to the Land and shall remain in full force and effect for a period of thirty (30) years from the date of recording the original restrictions, and thereafter these Covenants shall be automatically extended for successive periods of ten (10) years each, unless within six (6) months prior to the commencement of any ten (10) year period, an instrument in writing, executed by the Owners representing seventy-five per cent (75%) of the votes of Lots has been recorded in the Public Records of Pinellas County, Florida, in which written agreement any of the Covenants provided for herein may be changed, modified, waived or extinguished, in whole or in part, as to all or any part of the property then subject thereto, in the manner and to the extent provided in such written agreement.

Section 13.06 - Amendment. Subject to the provisions of Section 13.03(b) hereof, the covenants, conditions and restrictions of this Declaration may be amended by an instrument executed by the then Owners who represent two thirds (2/3) of the votes of Lots and shall be placed of record in the Office of the Clerk of the Circuit Court where the Land is located. Notwithstanding anything herein

contained or in Section 13.03 to the contrary, no amendment of this Declaration which in any way alters, changes, limits, diminishes or otherwise affects any Institutional Lender's position, right or equity as mortgagee of a Lot shall be effective without the joinder of the Institutional Lender, nor shall any amendment affect the rights reserved unto the Developer throughout this Declaration as long as there is a Class B membership, without the Developer's approval.

NOTWITHSTANDING THE FOREGOING, THERE SHALL BE NO AMENDMENT TO THIS DECLARATION, THE ARTICLES OF INCORPORATION OR BYLAWS OF THE ASSOCIATION WHICH AFFECT THE SURFACE WATER MANAGEMENT SYSTEM WITH THE OPERATION OF MAINTENANCE OF THE SAME WITHOUT THE PRIOR WRITTEN APPROVAL OF THE SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT.

Section 13.07 - Negligence. Any Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect, carelessness or by that of any member of his family, or by his or her guests, employees or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse or occupancy or abandonment of a Unit interest or its appurtenances.

Section 13.08 - Enforcement. If any person, firm, corporation or other entity shall violate or attempt to violate any of the Covenants, it shall be lawful for Developer, the Association or any person or persons owning any Lot:

(a) To institute and maintain civil proceedings for the recovery of damages against those so violating or attempting to violate any such covenants or restrictions; or

(b) To institute and maintain a civil proceeding in any court of competent jurisdiction against those so violating or attempting to violate any of the Covenants for the purpose of preventing or enjoining all or any such violations or attempted violations. The remedies contained in this Section 13.08 shall be construed as cumulative of all other remedies now or hereafter provided by law. The failure of Developer, his grantees, successors or assigns, to enforce any Covenant or any other obligation, right, power, privilege, authority or reservation herein contained, however long continued, shall in no event be deemed a waiver of the right to enforce the same thereafter as to the same breach or violation, or as to any other breach or violation thereof occurring prior to or subsequent thereto.

(c) In any proceeding arising because of alleged failure of an Owner to comply with the terms of this Declaration, its Exhibits or Regulations adopted pursuant thereto, as said documents and Regulations may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the court.

Section 13.09 – Annexation. While at the time of the recording of this Declaration, the covenants, conditions and restrictions contained herein apply only to the property described in Exhibit A, Developer does reserve the right, in its sole discretion, to annex to the terms of this Declaration additional lands that it owns adjacent to that described in Exhibit A. As provided previously for amendments, said annexation may be accomplished solely by the Developer without the joinder or consent of the Association, Owners or the holders of liens on Lots. There is no obligation on the part of the Developer to make such an annexation, but at the time an amendment of annexation is

recorded, said annexed land shall become subject to the terms and conditions of this Declaration.

Section 13.10 - Severability. The invalidation of any provision or provisions of the Covenants set forth herein by judgment or court order shall not affect or modify any of the other provisions of the Covenants which shall remain in full force and effect.

Section 13.11 - Paragraph Headings. The paragraph headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning, content or interpretation hereof.

Section 13.12 – Clearwater. All of the covenants, conditions and restrictions contained herein shall be enforceable by the City of Clearwater, Florida, including but not limited to the right to assess liens, and by acceptance of delivery of a deed or other instrument of conveyance with respect to any Lot or Parcel covered hereby, each Owner, and his successors and assigns, consents to said enforcement power. In the event Clearwater should assume the maintenance of the Common Area or any unit because of the failure of the Association or a Unit Owner to perform required maintenance, then Clearwater shall have the right to assess the Association or the Unit Owner who fails to perform the required maintenance, and upon the Association's or Unit Owner's failure to pay said assessment, then Clearwater shall have the right to place a lien against each unit in the development if the Association has defaulted on its maintenance obligation, or against the particular unit involved if a Unit Owner has defaulted in his obligation. The manner, method and enforcement rights of filing said lien shall be the same as provided in Article VIII hereof if the Association were to be filing and enforcing a lien. No omission or failure to act by the Clearwater, under this paragraph with respect to any individual or collective violations of this Declaration shall be construed as, nor shall it constitute, any waiver, relinquishment or estoppel as to Clearwater's subsequent right to enforce the same or any other violation hereof. To the extent this Declaration or any provision hereof contains any development, construction or other requirements more stringent than the standard provisions for subdivision development or building construction contained in Clearwater, the more strict standards shall apply. In this regard, Clearwater, shall have the right to deny any building permit or certificate of occupancy sought for any structure upon the property covered by this Declaration, if the plans and specifications therefore do not meet with the strict requirements of this Declaration, in addition to any requirements of general application to such structures under the then existing City Code. In the event Clearwater, is required to take any legal action to exercise its rights hereunder, it shall be entitled to recover, in addition to the taxable costs incurred incident thereto, a reasonable attorney's fee for all legal services rendered incident thereto on behalf of Clearwater.

Section 13.13 - Inapplicability of Condominium Act. It is acknowledged that the Association is not intended to be a condominium association, and is not intended to and shall not be governed by the provisions of Florida Statutes, Chapter 718.

Section 13.14 - No Public Right of Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any portion of the Land to the public or for any public use.

Section 13.15 - No Representations or Warranties. No representations or warranties of any kind, express or implied, have been given or made by Developer or its agents or employees in connection with any portion of the association Property, its physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the land, sale, operation,

maintenance, cost of maintenance, taxes or regulation thereof, except as specifically and expressly set forth in this Declaration.

Section 13.16 - Waiver of Trial by Jury and Release. BY ACCEPTANCE OF A DEED, EACH OWNER KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHT HE MAY HAVE TO A TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION, WITH RESPECT TO ANY ACTION, PROCEEDINGS, CLAIM, COUNTERCLAIM OR CROSS CLAIM, WHETHER IN CONTRACT AND/OR IN TORT (REGARDLESS IF THE TORT ACTION IS PRESENTLY RECOGNIZED OR NOT), BASED ON, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY RELATED TO THE ASSOCIATION DOCUMENTS, INCLUDING ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT, VALIDATION, PROTECTION, ENFORCEMENT ACTION OR OMISSION OF ANY PARTY. DEVELOPER HEREBY SUGGESTS THAT EACH OWNER UNDERSTAND THE LEGAL CONSEQUENCES OF ACCEPTING A DEED TO A HOME. EACH OWNER DOES HEREBY RELEASE, WAIVE, DISCHARGE, COVENANT NOT TO SUE, ACQUIT, SATISFY AND FOREVER DISCHARGE DEVELOPER, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS AND ITS AFFILIATES AND ASSIGNS FROM ANY AND ALL LIABILITY, CLAIMS, COUNTERCLAIMS, DEFENSES, ACTIONS, CAUSES OF ACTION, SUITES, CONTROVERSIES, AGREEMENTS, PROMISES AND DEMANDS WHATSOEVER IN LAW OR EQUITY WHICH AN OWNER MAY HAVE IN THE FUTURE, OR WHICH ANY PERSONAL REPRESENTATIVE, SUCCESSOR, HEIR OR ASSIGN OF OWNER HEREAFTER CAN, SHALL OR MAY HAVE AGAINST DEVELOPER, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS AND ITS AFFILIATES AND ASSIGNS FOR UPON OR BY REASON OF ANY MATTER, CAUSE OR THING WHATSOEVER RESPECTING THIS DECLARATION, OR THE EXHIBITS HERETO. THIS RELEASE AND WAIVER IS INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY THE LAWS OF THE STATE OF FLORIDA.

Section 13.17 - Southwest Florida Water Management District "SWFWMD". The following terms and conditions are specifically included in this Declaration for the benefit of the Southwest Florida Water Management District ("District") in accordance with the regulations and requirements thereof and pursuant to the permit issued for the installation of the Surface Water Management System in this Development.

(a) The Surface Water Management System shall be located on land that is designated as Common Area, owned by the Association or located on land that is the subject of an Easement in favor of the Association, its successors and assigns.

(b) The Association shall operate, maintain and manage the Surface Water Management System in a manner consistent with the District Permit requirements and applicable District rules, and shall assist in the enforcement of the restrictions and covenants contained herein. Maintenance of the Surface Water Management System shall mean the exercise of practices which allow the systems to provide drainage, water storage, treatment, conveyance or other surface water or storm water management capabilities as permitted by the District. Any repair or reconstruction of the surface water or storm water management system shall only be permitted as approved by the District.

If the Association ceases to exist, all Owners shall be jointly and severally responsible for the operation and maintenance of the Surface Water Management System in accordance with the requirements of the Environmental Resource Permit, unless and until an alternate entity assumes responsibility for the same.

(c) No structure of any kind shall be constructed or erected within, nor shall an Owner in any way change, alter, impede, revise or otherwise interfere with the flow and volume of water in any portion of any drainage areas or the Surface Water Management System, nor shall any grading, alternation, or other modifications to these areas be made without the prior written permission of the Association, City of Clearwater, and the District.

(d) No Owner shall in any way deny or prevent ingress and egress by the Declarant, the Association, City of Clearwater, or the District to any drainage areas or the Surface Water Management System for maintenance or landscape purposes. The right of ingress and egress, and Easements therefore are hereby specifically reserved and created in favor of the Declarant, the Association, the District, City of Clearwater, or any appropriate governmental or quasi-governmental agency that may reasonably require such ingress and egress.

(e) No Lot shall be increased in size by filling in any drainage areas or other portion of the Surface Water Management System. No Owner shall fill, dike, rip-rap, block, divert or change the established drainage areas or the Surface Water Management system that have been or may be created by Easement without the prior written consent of the Association, City of Clearwater and the District.

(f) No wall, fence, paving, planting or other improvement may be placed by an Owner within a drainage area, drainage Easement, or the Surface Water Management System.

(g) The District, and City of Clearwater, shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the Surface Water Management System.

(h) No construction activities may be conducted relative to any portion of the Surface Water Management System without the approval of the District. Prohibited activities in the previous sentence include, but are not limited to digging or excavation; depositing fill, debris or other material items; construction or altering any water control structure; or any other construction to modify the Surface Water Management System facilities. If the project includes a wetland mitigation area, as defined in Section 1.7.24 of SWFWMD Rules and Regulations, or a wet detention pond, no vegetation of these areas shall be removed, cut, trimmed, or sprayed with herbicide without the specific written approval of the District. Construction or maintenance activities, which are consistent with the design and permit conditions approved by the District in the Environmental Resource Permit may be conducted without specific written approval by the District.

(i) For Surface Water Management Systems that require on-site wetland mitigation as defined in Section 1.7.24 or which require ongoing monitoring and maintenance, the Association shall be required to include in their annual budget and as part of the Assessments made pursuant to Article VIII hereof sufficient funds for monitoring and maintenance of the wetland mitigation areas on an annual basis until the District determines that the area(s) is successful in accordance with the Environmental Resource Permit.

ARTICLE XIV - SPECIAL PROVISIONS TO SATISFY THE  
REQUIREMENTS OF FEDERAL NATIONAL MORTGAGE ASSOCIATION.

Section 14.01 - Association Records. The Association shall allow all Owners, their lenders, insurers and guarantors of first mortgages to inspect, during normal business hours, all of the records of the Association.

Section 14.02 - Association Annual Statement. Upon written request, the Association shall furnish its most recent annual statement to any holder of a first mortgage of a Lot in the Development.

Section 14.03 - Notices. Upon written request, the Association shall furnish the following notices to the holder, insurer or guarantor of any mortgage of any Lot in the Development:

- (a) Notice of any delinquency in the payment of assessments more than sixty (60) days past due as to the applicable Lot.
- (b) Notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.
- (c) Notice of any proposed action which would require the consent of a percentage of mortgage holders.

Section 14.04 - Terms. As used herein, the terms “mortgagee” or “lender” shall be deemed to include the Federal National Mortgage Association, as applicable.

ARTICLE XV – LOT LINE ADJUSTMENTS

Section 15.01 – Developer’s Right to Replat. In the event an encroachment exists as a result from deviations in the plans and specifications during construction, the Developer retains the right to amend the plat by making lot line adjustments to remove said encroachments which may be done without the written joinder of the Owners and Owner’s mortgagee.

ARTICLE XVI – AFFORDABLE HOUSING RESTRICTIONS

Title to each Lot shall be subject to the terms and conditions of that certain Declaration of Restrictive Covenants in favor of the City of Clearwater, recorded in Official Records Book 16296, beginning at Page 1339, and amended by that certain Amended and Restated Declaration of Restrictive Covenants dated April 20, 2012 and recorded June 19, 2012 in Official Records Book 17618, beginning at Page 1143, all of the Public Records of Pinellas County, Florida (collectively “Clearwater Restrictions”), and subject to that certain Land Use Restriction Agreement in favor of the Pinellas County Board of County Commissioners, recorded in Official Records Book 17799, beginning at Page 1124, all of the Public Records of Pinellas County, Florida (“Pinellas County Restrictions”).

Both the Clearwater Restrictions and the Pinellas County Restrictions shall remain in full force and effect, and effect title to each unit for their respective Affordability Period. The Affordability Period for the Clearwater Restrictions began April 20, 2012 and ends when 51% of the

Units are sold with the 16th homebuyer closing on the Loan to purchase Unit and taking fee simple title to the property. The Affordability Period for the Pinellas County Restrictions shall be specific to each unit and shall commence upon the date of the initial sale of the Unit and end on the last day of the thirtieth (30) year thereafter.

THE CLEARWATER RESTRICTIONS PROVIDE AS FOLLOWS:

(a) That at least fifty-one percent (51%) (sixteen) of the Units developed be made available and reserved for sale to low to moderate income families, as that term is defined in the Clearwater Restrictions.

(b) Each of the sixteen (16) Units be shall sold during the Affordability Period to a family whose annual income does not exceed eighty percent (80%) of the median family income for the area, as determined and made available by the Department of Housing and Urban Development, with adjustments for smaller and larger families at the time of the purchase of the Unit.

(c) The Unit must be the principal residence of the Buyer.

(d) The income of the Buyer shall be verified by the City of Clearwater or a designated nonprofit party agreed to by the City of Clearwater, by obtaining third party verification of current income for the Buyer and verification of assets.

(e) The value of the Unit shall not exceed ninety-five percent (95%) of the median purchase price for that type of single-family housing for the area. The maximum per Unit subsidy amount shall not exceed the per dollar limits established under Section 221(d)(3) and (4) of the National Housing Act, as applicable.

(f) Title to the Unit shall be conveyed in fee simple.

(g) During the Affordability Period, the single family CDBG assisted units (16 units) must be occupied by a low to moderate income CDBG homebuyer.

THE PINELLAS COUNTY RESTRICTIONS PROVIDE AS FOLLOWS:

(a) Fourteen (14) of the Units shall be sold to a Buyer whose annual income does not exceed one hundred twenty percent (120%) of the Area Medium Income at the time of purchase. Future resale of Units shall also be limited to Buyers whose annual income does not exceed one hundred twenty percent (120%) of the Area Medium Income. Annual income shall be as defined by the U.S. Department of Housing and Urban Development for the HOME Program, adjusted for family size.

(b) During the Affordability Period, the Development shall be operated as affordable residential ownership housing and may not be used as or converted to rental housing or other residential or business use.

(c) Unit Buyers must occupy the Units as full-time homestead residences, and Buyers shall not be permitted to rent or lease the Units at any time during the Affordability Period, however, exceptions may be made for military families.



(d) The Restrictions apply to the initial Unit sale, as well as future resales for the duration of the Affordability Period.

(e) Buyer shall be required to execute at closing a Land Use Restriction Agreement ("LURA"), affidavit or other Pinellas County approved agreement stipulating and acknowledging that the purchase shall be subject to the Pinellas County Restrictions.

(f) Buyers shall be required to complete a minimum of eight (8) hours of homebuyer counseling from a Hud approved housing counselor before obtaining a mortgage loan and purchasing a Unit in the development.

For more information regarding the City of Clearwater Restrictions and the Pinellas County Restrictions, reference should be made to each recorded document as identified above.

IN WITNESS WHEREOF, Developer has caused this instrument to be duly executed this 19<sup>th</sup> day of November, 2012.

Signed, sealed and delivered in the presence of:

DEVELOPER:

[Signature]

SP COUNTRY CLUB HOMES, LLC

By: [Signature]

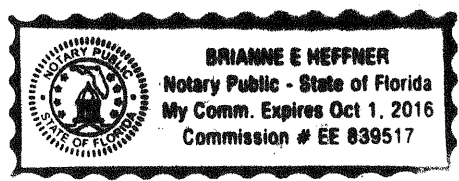
Print Name: Michael Motinari

[Signature]  
Print Name: Suzanne M. Werner

STATE OF FLORIDA  
COUNTY OF PINELLAS

The foregoing was acknowledged before me this 19<sup>th</sup> day of November, 2012, by Peter Leach, as Developer of SP Country Club Homes, LLC, a Florida limited partnership, who is personally known to me or who has produced Id as identification.

[Signature]  
Notary Public  
My Commission Expires: Oct 1, 2016



**JOINDER AND CONSENT OF MORTGAGE**

The undersigned owner and holder of a promissory note secured by a MORTGAGE dated June 16, 2008 and recorded June 24, 2008 in O.R. Book 16296, commencing at Page 1332 of the Public Records of Pinellas County, Florida, given to SP Country Club Homes, LLC upon real property located in the City of Clearwater, Florida, and being the same property described in Exhibit "A" of the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR COUNTRY CLUB TOWNHOMES, to be recorded in the Public Records of Pinellas County, Florida, (hereinafter referred to as "Declaration"), hereby joins in and consents to the making of the Declaration, and agrees that the lien of its mortgage upon said real property described in Exhibit "A" of the Declaration and improvements thereon shall be subject to the Declaration.

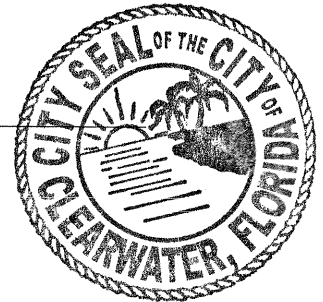
Dated and executed this            day of November 27, 2012

CITY OF CLEARWATER, FLORIDA

By: William B. Horne II  
William B. Horne II  
City Manager

Approved as to form:  
PKA  
Pamela K. Akin  
City Attorney


Attest:  
Rosemarie Call  
Rosemarie Call  
City Clerk



STATE OF FLORIDA    )  
COUNTY OF PINELLAS )

The foregoing instrument was acknowledged before me this 28th day of November, 2012, by WILLIAM B. HORNE II, City Manager of the City of Clearwater, who is personally known to me.

Sandra Harriger  
Print/Type Name: Sandra Harriger  
Notary Public

 SANDRA HARRIGER  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# EE142238  
Expires 1/4/2016

**JOINDER AND CONSENT OF MORTGAGE**

The undersigned owner and holder of a promissory note secured by a MORTGAGE dated July 22, 2011 and recorded July 22, 2011 in O.R. Book 17310, commencing at Page 189, and modified by Mortgage Modification Agreement and Notice of Future Advance dated March 29, 2012 and recorded March 29, 2012 in O.R. Book 17533, page 1008, of the Public Records of Pinellas County, Florida, given to SP Country Club Homes, LLC upon real property located in the City of Clearwater, Florida, and being the same property described in Exhibit "A" of the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR COUNTRY CLUB TOWNHOMES, to be recorded in the Public Records of Pinellas County, Florida, (hereinafter referred to as "Declaration"), hereby joins in and consents to the making of the Declaration, and agrees that the lien of its mortgage upon said real property described in Exhibit "A" of the Declaration and improvements thereon shall be subject to the Declaration.

Dated and executed this 21<sup>st</sup> day of November, 2012.

Witnesses:

PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS

[Signature]  
Name: Sherry Jane Martin

By: [Signature]  
Print Name: ANTHONY M. JONES  
Title: COMMUNITY DEVELOPMENT DIRECTOR

Tanya Beelman  
Name: TANYA BEELMAN

STATE OF FLORIDA  
COUNTY OF PINELLAS

The foregoing was acknowledged before me this 21<sup>st</sup> day of November 2012, by Anthony M. Jones, as Director of Community Development of the PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS, who is personally known to me or who has produced \_\_\_\_\_ as identification.

Notary Seal/Stamp



Karmen Lemberg  
COMMISSION # EE 833025  
EXPIRES: NOV. 24, 2016  
WWW.AARONNOTARY.com

[Signature]  
Notary Public  
My Commission Expires: 11.24.16

**JOINDER AND CONSENT OF MORTGAGE**

The undersigned owner and holder of a promissory note secured by a MORTGAGE dated December 30, 2011 and recorded December 30, 2011 in O.R. Book 17448, commencing at Page 447, of the Public Records of Pinellas County, Florida, given to SP Country Club Homes, LLC upon real property located in the City of Clearwater, Florida, and being the same property described in Exhibit "A" of the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR COUNTRY CLUB TOWNHOMES, to be recorded in the Public Records of Pinellas County, Florida, (hereinafter referred to as "Declaration"), hereby joins in and consents to the making of the Declaration, and agrees that the lien of its mortgage upon said real property described in Exhibit "A" of the Declaration and improvements thereon shall be subject to the Declaration.

Dated and executed this 20<sup>TH</sup> day of November, 2012.

Witnesses:

NEIGHBORHOOD LENDING PARTNERS OF WEST FLORIDA, INC., a not-for-profit corporation

[Signature]  
Name: Lee Devine

By: [Signature]  
Print Name: DEBRA S REYES  
Title: PRESIDENT & CEO

[Signature]  
Name: Suzanne Holtham

STATE OF FLORIDA  
COUNTY OF PINELLAS

The foregoing was acknowledged before me this 20<sup>TH</sup> day of November 2012, by DEBRA S. REYES, as PRESIDENT / CEO of the NEIGHBORHOOD LENDING PARTNERS OF WEST FLORIDA, INC., a not-for-profit corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification.

Notary Seal/Stamp

[Signature]  
Notary Public  
My Commission Expires:



Exhibit A  
**(Legal Description)**

Lots 1 through 31 inclusive, and Tracts A, B, C, and D of COUNTRY CLUB TOWNHOMES, according to the plat thereof recorded in Plat Book 137, Pages 16 and 17, of the Public Records of Pinellas County, Florida.

**AMENDED AND RESTATED  
DECLARATION OF RESTRICTIVE COVENANTS  
CITY OF CLEARWATER  
CDBG PROGRAM**

THIS DECLARATION, made this 20th day of April 2012, is hereby amending and restating declarations made on June 16, 2008, between SP Country Club Homes LLC, its successors, assigns and transferees of the project described below, whose mailing address is 2430 Estancia Blvd., Suite 101, Clearwater, Florida 33761, hereinafter called ("Borrower") and the City of Clearwater, Florida, a municipal corporation organized and existing under the laws of the State of Florida hereinafter called ("City").

WHEREAS, the Borrower and the City entered into that certain Declaration of Restrictive Covenants dated June 16, 2008 ("Declaration"), binding certain real property as more particularly described herein ("Property") to a thirty (30) year affordable housing restriction because it was unknown at that time what affordable housing project would be built on the Property; and

WHEREAS, the affordable housing project has now been defined, the Borrower has since entered into, or within sufficient time will enter into, additional agreements for construction funding and eligible purchasers will enter into agreements for down payment assistance which shall contain restrictive covenants that the City agrees will be adequate to meet affordability requirements as provided by law; and

WHEREAS, the Borrower is in the process of developing affordable housing units for low to moderate-income residents as described and required by these restrictive covenants, and agrees with the City that the real property which is subject to that certain executed Mortgage and Note as recorded in the official records of Pinellas County in Book 16296, pages 1332-1355 shall be subject to the restrictive covenants set forth herein, as well as all restrictions of record; and

AS CONTAINED IN THE MORTGAGE RECORDED ON JUNE 24, 2008, IN O.R. BOOK 16296, PAGES 1332-1355

WHEREAS, Borrower agrees that these restrictive covenants shall remain in full force and effect against the real property until fifty-one percent (51%) of the units are sold to low to moderate income homebuyers ("Affordability Period").

This Agreement shall be properly filed and recorded by the City in the Official Public Records of the Pinellas County, Florida and shall constitute a restriction upon the use of the property subject to and in accordance with the terms contained herein.

IN CONSIDERATION of funds the City has provided to the Borrower for a loan to finance the acquisition of certain lands in the City of Clearwater, Pinellas County, Florida, more particularly described as:

A portion of Lots 1 through 6, Block 3, Revised Plat of Brookwood Terrace, as recorded in Plat Book 8, Page 34, of the Public Records of Pinellas County, Florida.

Together with:

A portion of Lots 1 through 8, F.A. Kennedy's Fair Lane Addition, as recorded in Plat Book 11, Page 16, of the Public Records of Pinellas County, Florida.

Being more particularly described as follows:

Commencing at the North 1/4 corner of said Section 15, Township 29 South, Range 15 East; thence run S.89° 18'56"E. along the North boundary of said Section 15, a distance of 1,093.85 feet; thence run S.00° 15'53"W., a distance of 31.80 feet to the Northeast corner of Kellet's Subdivision, as recorded in Plat Book 11, Page 24, of the Public Records of Pinellas County, Florida; then run S.89° 05'28"E., a distance of 40.00 feet to the Northwest corner of F.A. Kennedy's Fair Lane Addition, as recorded in Plat Book 11, Page 16, of the Public Records of Pinellas County, Florida, said point also being the point of beginning; thence run S.89° 21'09"E. along the North boundaries of said F.A. Kennedy's Fair Lane Addition and Revised Plat of Brookwood Terrace, as recorded in Plat Book 8, Page 34, of the Public Records of Pinellas County, Florida, a distance of 310.07 feet to the Northeast corner of Block 3, said Revised Plat of Brookwood Terrace; thence run S.00° 00'19"W. along the East boundary of said Block 3, Revised Plat of Brookwood Terrace, a distance of 310.02 feet to the Southeast corner of Lot 6, of said Block 3, revised Plat of Brookwood Terrace; thence run N.89° 22'14"W. along the Southerly boundary of said Lot 6 and its Westerly extension, a distance of 311.44 feet to a point on the westerly boundary of F.A. Kennedy's Addition; thence run N.00° 15'26"E. along the West boundary of F.A. Kennedy's Fair Lane Addition, a distance of 310.10 feet to the point of beginning.

the Borrower acknowledges that this Agreement is necessary to comply with the affordability requirements of the Community Development Block Grant ("CDBG") program as stated at 24

CFR part 570, specifically, CDBG program criteria for national objectives as stated in 24 CFR §570.208, from which funds were obtained to finance such loan, and subpart B of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, §24.101, and therefore, borrower covenants and agrees that in connection with the acquisition and development of the project, that the City should approve any transfer or sale of the subject property and borrower will comply, and will require any subsequent purchaser of the project to comply, with the following:

**1. Recitals.** The foregoing recitals are true and correct and are incorporated in and form a part of this Agreement.

**2. Covenants and Restrictions on Use of Funds.** CDBG funds provided to this project have been used for acquisition of the real property. The Borrower agrees that at least fifty-one percent (51%) of the units developed will be made available and reserved for sale to low to moderate-income families. During the Period of Affordability as defined herein, the single family CDBG assisted unit (51% of the units) shall be sold to a family whose annual income does not exceed 80 percent of the median family income for the area, as determined and made available by the Department of Housing and Urban Development with adjustments for smaller and larger families at the time of purchase of the new home. The home must be the principal residence of the family.

(a) The income of the persons or family who will occupy the unit shall be verified by the City or a designated non-profit party agreed to by the Borrower and the City, by obtaining third party verification of current income for the family who will occupy the housing unit and verification of assets. Source documentation evidencing annual income may include wage statements, interest statements, and unemployment compensation statements, other documentation approved by the City. In the event that neither of the above methods is suitable, the Borrower may use other methods acceptable to the City to verify income. Annual income for the purpose of this



Agreement shall be as defined by the Department of Housing and Urban Development for the CDBG Program.

(b) The value of the CDBG assisted unit shall not exceed 95 percent of the median purchase price for that type of single family housing for the area. The maximum per unit subsidy amount shall not exceed the per dollar limits established under section 221 (d) (3) and (4) of the National Housing Act, as applicable.

(c) The family or individuals purchasing the single-family CDBG unit shall hold fee simple title to the property.

(d) For the purpose of this Agreement, the Period of Affordability shall be a period beginning on the date of this agreement and terminating when fifty-one percent (51%) of the units are sold with the 16<sup>th</sup> homebuyer closing on the loan to purchase the unit, taking fee simple title to the property.

(e) During the Period of Affordability, the single family CDBG assisted units (16 units) must be occupied by a low-income CDBG homebuyer.

(f) All proceeds, program income and recaptured funds associated with this project shall be returned to the City of Clearwater within 30 days.

(g) Any noncompliance with the requirement of this Section shall be corrected within 30 days after such error is first discovered or would have been discovered by the exercise of reasonable diligence.

**3. Property Standards:** The single family unit shall meet and maintain all applicable local codes, the Florida Building Code, ordinances, including but not limited to, zoning ordinances at the time of project completion. All CDBG units must meet all applicable State and local housing quality standards, code requirements and accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 and covered multifamily dwellings as defined at 24 CFR 100.20, and must also meet the design and renovation requirements at 24 CFR

100.205, which implement the Fair Housing Act. Development of the units must meet the Model Energy Code.

**4. Location of CDBG Assisted Units.** The location of the CDBG assisted project is as follows:

A portion of Lots 1 through 6, Block 3, Revised Plat of Brookwood Terrace, as recorded in Plat Book 8, Page 34, of the Public Records of Pinellas County, Florida.

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The Borrower agrees that there will be no material changes to the design of the project after initial commitment by the City without assurances provided by Borrower and approved by City that the proposed changes will not adversely affect the CDBG assisted units or any provision of this Agreement.

**5. No Discrimination.** The Borrower shall not discriminate, as defined by Federal Statutes, on the basis of race, creed, color, sex, age or national origin in the use or occupancy of the CDBG

assisted units or in connection with the employment or application for employment of persons for the operation and management of the project.

**6. Affirmative Marketing Efforts.** The Borrower will follow the affirmative marketing procedures and requirements for the CDBG Program to attract eligible CDBG buyers in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status or disability.

**7. Environmental Reviews.** The acquisition development project must be assessed for environmental effects in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) and related authorities listed in HUD's implementing regulations at 24 CFR parts 50 and 58.

**8. Displacement, relocation and acquisition.** The Borrower will take reasonable measures to minimize displacement of persons as a result of a project being assisted with CDBG funds in accordance with the requirements of the Uniform Relocation Assistance and Real Properties Acquisition Act. The borrower shall be responsible for any relocation expenses incurred without City approval.

**9. Lead Based Paint.** The Borrower shall be responsible for maintaining that all CDBG assisted units meet the requirements listed in the Lead Based Paint Poisoning Prevention Act and 24 CFR part 35.

**10. No Conflicts with Other Documents.** The Borrower warrants that it has not, and will not, execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that, in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.

**11. Requests for disbursement of funds.** The Borrower shall request funding for the CDBG assisted project from the City of Clearwater on an as needed basis and in accordance with its application and approval for such funds.

**12. Records.** The Borrower shall retain all records pertaining to Project for a period of five years after audit and/or resolution of audit findings involving this loan. The Borrower shall maintain accurate information regarding the occupancy for each CDBG unit during the term of the Affordability Period and, at the request of the City, shall submit this information to the City for the City's review and comment. The Borrower shall maintain documentation substantiating compliance with Affirmative Marketing Requirements. These Project records shall be made available to The City of Clearwater, U.S. Department of Housing and Urban Development and/or representatives of the Comptroller General of the United States for audit, inspection or copying purposes during normal business hours.

The Owner shall maintain project records that include the following:

- (1) A full description of each unit assisted with CDBG funds, including the location and form of CDBG assistance.
- (2) The source and application of funds for each project, including supporting documentation in accordance with 24 CFR 85.20.
- (3) Records demonstrating that each project meets the property standards of the lead based paint requirements.
- (4) Records demonstrating that each family is income eligible.
- (5) Records demonstrating that the purchase price or estimated value after rehabilitation for each CDBG ownership housing project does not exceed 95% of the median purchase price for the area.
- (6) Records demonstrating that each CDBG ownership project meets the affordability requirements.

- (7) Records documenting required inspections, monitoring reviews and audit, and the resolution of any findings or concerns
- (8) Records documenting equal opportunity and fair housing records.
- (9) Records documenting all CDBG related financial activities.
- (10) Records documenting affirmative marketing and MBE/WBE activities.

**13. Monitoring.** The Borrower shall permit the City or its designee to inspect all records pertaining to CDBG assisted units upon reasonable notice and within normal working hours and shall submit to the City such documentation as required by the City to document compliance with this Agreement and CDBG Program rules. If the project is new construction, the Borrower shall provide the required documentation quarterly, until all CDBG units are sold.

**14. Successors Bound.** This Agreement and the covenants contained herein shall run with the land and shall bind, and the benefits shall inure to, respectively, the Borrower and its successors and assigns and all subsequent owners of the project or any interest therein, and to the City for the Period of Affordability set forth in this Agreement.

**15. Enforcement of Terms.** The benefits of this Agreement shall inure to, and may be enforced by the City for the Period of Affordability, whether or not the City shall continue to be the holder of the Mortgage, whether or not the project loan may be paid in full, and whether or not any bonds issued for the purpose of providing funds for the project are outstanding.

**16. Conflict of Interest.** The Borrower warrants that no person covered who exercises or exercised any functions or responsibilities with respect to CDBG activities or who is in the position to participate in decisions or gain inside information may obtain a financial interest or benefit from a CDBG activity; or have an interest in any contract, subcontract or agreement for themselves or for persons with business or family ties.

**17. Conditions of Religious Organizations.** CDBG funds may not be used for rehabilitation or construction of housing that is owned by primarily religious organizations or to assist primarily religious organizations in acquiring housing.

**18. Uniform Administrative Requirements.** If the owner of the CDBG assisted project is a not-for-profit organization, the owner agrees to comply with applicable federal administrative requirements of OMB Circular A-87 and applicable provisions of 24 CFR 85 for government entities, or OMB Circular A-122 and applicable provisions of 24 CFR Part 84 for non-profit entities.

**19. Severability.** The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portion thereof.

**20. Defaults and Remedies.** If the Borrower shall fail to observe or perform any covenant, condition or agreement contained herein on its part to be observed or performed, then and in such event, the City shall be entitled, in addition to all other remedies provided by law or in equity:

(a) To compel specific performance by the Borrower of its obligations under this Agreement, it being recognized that the beneficiaries of Borrower obligations hereunder cannot be adequately compensated by monetary damages in the event of Borrower's default.

(b) To cause the Borrower to pay to the City an amount equal to all CDBG funds loaned to Borrower less any principal balance previously repaid by Borrower or the transfer of real property acquired with CDBG assistance, if any CDBG assisted unit is knowingly or negligently sold to persons who do not comply with the requirements for such unit.

(c) In addition, to these remedies, a default by the Borrower hereunder shall constitute a default under the Mortgage and Note which will enable the City thereunder, after notice and an opportunity to cure as therein provided, to accelerate the Borrower's loan and take such other actions as may be permitted under the terms of the Mortgage.

In Witness Whereof

Signed, Sealed and Delivered in the presence of:

\*Note: Two witnesses are required

Please type or write names underneath signatures

**SP Country Club Homes, LLC**

By: **SP Country Club Homes, LLC – a limited liability corporation**

By: Isid Pa  
Managing Member

Peter K. Lee  
Witness

[Signature]  
Witness

City of Clearwater, Florida

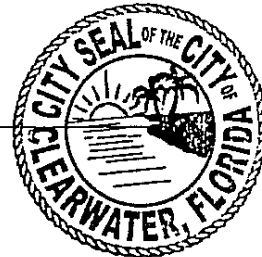
William B. Horne II  
William B. Horne, II  
City Manager

Attest:

Approved as to form:

Laura Mahony  
Laura Mahony  
Assistant City Attorney

Rosemarie Call  
Rosemarie Call  
City Clerk



State of Florida } S.S.  
County of Pinellas }

COPY

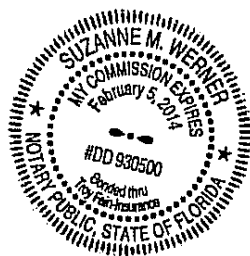
The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of April, 2012 by J. David Page, as the managing member of SP Country Club Homes LLC, a Florida limited liability company. He is personally known to me.

By: Suzanne M. Werner

Name: Suzanne M. Werner

Commission No: # DD 930500

Commission Expiration Date: Feb 5<sup>th</sup> 2014



COPY



**AMENDED AND RESTATED  
DECLARATION OF RESTRICTIVE COVENANTS  
CITY OF CLEARWATER  
CDBG PROGRAM**

THIS DECLARATION, made this \_\_\_\_\_ day of \_\_\_\_\_ 2012 , is hereby amending and restating declarations made on June 16, 2008, between SP Country Club Homes LLC, its successors, assigns and transferees of the project described below, whose mailing address is 2430 Estancia Blvd., Suite 101, Clearwater, Florida 33761, hereinafter called (“Borrower”) and the City of Clearwater, Florida, a municipal corporation organized and existing under the laws of the State of Florida hereinafter called (“City”).

WHEREAS, the Borrower and the City entered into that certain Declaration of Restrictive Covenants dated June 16, 2008 (“Declaration”), binding certain real property as more particularly described herein (“Property”) to a thirty (30) year affordable housing restriction because it was unknown at that time what affordable housing project would be built on the Property; and

WHEREAS, the affordable housing project has now been defined, the Borrower has since entered into, or within sufficient time will enter into, additional agreements for construction funding and eligible purchasers will enter into agreements for down payment assistance which shall contain restrictive covenants that the City agrees will be adequate to meet affordability requirements as provided by law; and

WHEREAS, the Borrower is in the process of developing affordable housing units for low to moderate-income residents as described and required by these restrictive covenants, and agrees with the City that the real property which is subject to that certain executed Mortgage and Note as recorded in the official records of Pinellas County in Book 16296, pages 1332-1355 shall be subject to the restrictive covenants set forth herein, as well as all restrictions of record; and

WHEREAS, Borrower agrees that these restrictive covenants shall remain in full force and effect against the real property until fifty-one percent (51%) of the units are sold to low to moderate income homebuyers ("Affordability Period").

This Agreement shall be properly filed and recorded by the City in the Official Public Records of the Pinellas County, Florida and shall constitute a restriction upon the use of the property subject to and in accordance with the terms contained herein.

IN CONSIDERATION of funds the City has provided to the Borrower for a loan to finance the acquisition of certain lands in the City of Clearwater, Pinellas County, Florida, more particularly described as:

A portion of Lots 1 through 6, Block 3, Revised Plat of Brookwood Terrace, as recorded in Plat Book 8, Page 34, of the Public Records of Pinellas County, Florida.

Together with:

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Being more particularly described as follows:

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the Borrower acknowledges that this Agreement is necessary to comply with the affordability requirements of the Community Development Block Grant ("CDBG") program as stated at 24

CFR part 570, specifically, CDBG program criteria for national objectives as stated in 24 CFR §570.208, from which funds were obtained to finance such loan, and subpart B of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, §24.101, and therefore, borrower covenants and agrees that in connection with the acquisition and development of the project, that the City should approve any transfer or sale of the subject property and borrower will comply, and will require any subsequent purchaser of the project to comply, with the following:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated in and form a part of this Agreement.
2. **Covenants and Restrictions on Use of Funds.** CDBG funds provided to this project have been used for acquisition of the real property. The Borrower agrees that at least fifty-one percent (51%) of the units developed will be made available and reserved for sale to low to moderate-income families. During the Period of Affordability as defined herein, the single family CDBG assisted unit (51% of the units) shall be sold to a family whose annual income does not exceed 80 percent of the median family income for the area, as determined and made available by the Department of Housing and Urban Development with adjustments for smaller and larger families at the time of purchase of the new home. The home must be the principal residence of the family.

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Agreement shall be as defined by the Department of Housing and Urban Development for the CDBG Program.

(b) The value of the CDBG assisted unit shall not exceed 95 percent of the median purchase price for that type of single family housing for the area. The maximum per unit subsidy amount shall not exceed the per dollar limits established under section 221 (d) (3) and (4) of the National Housing Act, as applicable.

(c) The family or individuals purchasing the single-family CDBG unit shall hold fee simple title to the property.

(d) For the purpose of this Agreement, the Period of Affordability shall be a period beginning on the date of this agreement and terminating when fifty-one percent (51%) of the units are sold with the 16<sup>th</sup> homebuyer closing on the loan to purchase the unit, taking fee simple title to the property.

(e) During the Period of Affordability, the single family CDBG assisted units (16 units) must be occupied by a low-income CDBG homebuyer.

(f) All proceeds, program income and recaptured funds associated with this project shall be returned to the City of Clearwater within 30 days.

(g) Any noncompliance with the requirement of this Section shall be corrected within 30 days after such error is first discovered or would have been discovered by the exercise of reasonable diligence.

**3. Property Standards:** The single family unit shall meet and maintain all applicable local codes, the Florida Building Code, ordinances, including but not limited to, zoning ordinances at the time of project completion. All CDBG units must meet all applicable State and local housing quality standards, code requirements and accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 and covered multifamily dwellings as defined at 24 CFR 100.20, and must also meet the design and renovation requirements at 24 CFR

100.205, which implement the Fair Housing Act. Development of the units must meet the Model Energy Code.

**4. Location of CDBG Assisted Units.** The location of the CDBG assisted project is as follows:

A portion of Lots 1 through 6, Block 3, Revised Plat of Brookwood Terrace, as recorded in Plat Book 8, Page 34, of the Public Records of Pinellas County, Florida.

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The Borrower agrees that there will be no material changes to the design of the project after initial commitment by the City without assurances provided by Borrower and approved by City that the proposed changes will not adversely affect the CDBG assisted units or any provision of this Agreement.

**5. No Discrimination.** The Borrower shall not discriminate, as defined by Federal Statutes, on the basis of race, creed, color, sex, age or national origin in the use or occupancy of the CDBG

assisted units or in connection with the employment or application for employment of persons for the operation and management of the project.

**6. Affirmative Marketing Efforts.** The Borrower will follow the affirmative marketing procedures and requirements for the CDBG Program to attract eligible CDBG buyers in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status or disability.

**7. Environmental Reviews.** The acquisition development project must be assessed for environmental effects in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) and related authorities listed in HUD's implementing regulations at 24 CFR parts 50 and 58.

**8. Displacement, relocation and acquisition.** The Borrower will take reasonable measures to minimize displacement of persons as a result of a project being assisted with CDBG funds in accordance with the requirements of the Uniform Relocation Assistance and Real Properties Acquisition Act. The borrower shall be responsible for any relocation expenses incurred without City approval.

**9. Lead Based Paint.** The Borrower shall be responsible for maintaining that all CDBG assisted units meet the requirements listed in the Lead Based Paint Poisoning Prevention Act and 24 CFR part 35.

**10. No Conflicts with Other Documents.** The Borrower warrants that it has not, and will not, execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that, in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.

**11. Requests for disbursement of funds.** The Borrower shall request funding for the CDBG assisted project from the City of Clearwater on an as needed basis and in accordance with its application and approval for such funds.

**12. Records.** The Borrower shall retain all records pertaining to Project for a period of five years after audit and/or resolution of audit findings involving this loan. The Borrower shall maintain accurate information regarding the occupancy for each CDBG unit during the term of the Affordability Period and, at the request of the City, shall submit this information to the City for the City's review and comment. The Borrower shall maintain documentation substantiating compliance with Affirmative Marketing Requirements. These Project records shall be made available to The City of Clearwater, U.S. Department of Housing and Urban Development and/or representatives of the Comptroller General of the United States for audit, inspection or copying purposes during normal business hours.

The Owner shall maintain project records that include the following:

- (1) A full description of each unit assisted with CDBG funds, including the location and form of CDBG assistance.
- (2) The source and application of funds for each project, including supporting documentation in accordance with 24 CFR 85.20.
- (3) Records demonstrating that each project meets the property standards of the lead based paint requirements.
- (4) Records demonstrating that each family is income eligible.
- (5) Records demonstrating that the purchase price or estimated value after rehabilitation for each CDBG ownership housing project does not exceed 95% of the median purchase price for the area.
- (6) Records demonstrating that each CDBG ownership project meets the affordability requirements.

- (7) Records documenting required inspections, monitoring reviews and audit, and the resolution of any findings or concerns
- (8) Records documenting equal opportunity and fair housing records.
- (9) Records documenting all CDBG related financial activities.
- (10) Records documenting affirmative marketing and MBE/WBE activities.

**13. Monitoring.** The Borrower shall permit the City or its designee to inspect all records pertaining to CDBG assisted units upon reasonable notice and within normal working hours and shall submit to the City such documentation as required by the City to document compliance with this Agreement and CDBG Program rules. If the project is new construction, the Borrower shall provide the required documentation quarterly, until all CDBG units are sold.

**14. Successors Bound.** This Agreement and the covenants contained herein shall run with the land and shall bind, and the benefits shall inure to, respectively, the Borrower and its successors and assigns and all subsequent owners of the project or any interest therein, and to the City for the Period of Affordability set forth in this Agreement.

**15. Enforcement of Terms.** The benefits of this Agreement shall inure to, and may be enforced by the City for the Period of Affordability, whether or not the City shall continue to be the holder of the Mortgage, whether or not the project loan may be paid in full, and whether or not any bonds issued for the purpose of providing funds for the project are outstanding.

**16. Conflict of Interest.** The Borrower warrants that no person covered who exercises or exercised any functions or responsibilities with respect to CDBG activities or who is in the position to participate in decisions or gain inside information may obtain a financial interest or benefit from a CDBG activity; or have an interest in any contract, subcontract or agreement for themselves or for persons with business or family ties.



**17. Conditions of Religious Organizations.** CDBG funds may not be used for rehabilitation or construction of housing that is owned by primarily religious organizations or to assist primarily religious organizations in acquiring housing.

**18. Uniform Administrative Requirements.** If the owner of the CDBG assisted project is a not-for-profit organization, the owner agrees to comply with applicable federal administrative requirements of OMB Circular A-87 and applicable provisions of 24 CFR 85 for government entities, or OMB Circular A-122 and applicable provisions of 24 CFR Part 84 for non-profit entities.

**19. Severability.** The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portion thereof.

**20. Defaults and Remedies.** If the Borrower shall fail to observe or perform any covenant, condition or agreement contained herein on its part to be observed or performed, then and in such event, the City shall be entitled, in addition to all other remedies provided by law or in equity:

(a) To compel specific performance by the Borrower of its obligations under this Agreement, it being recognized that the beneficiaries of Borrower obligations hereunder cannot be adequately compensated by monetary damages in the event of Borrower's default.

(b) To cause the Borrower to pay to the City an amount equal to all CDBG funds loaned to Borrower less any principal balance previously repaid by Borrower or the transfer of real property acquired with CDBG assistance, if any CDBG assisted unit is knowingly or negligently sold to persons who do not comply with the requirements for such unit.

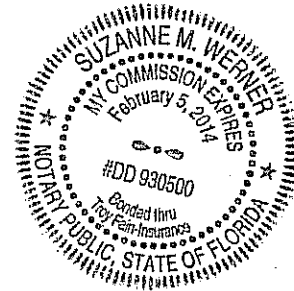
(c) In addition, to these remedies, a default by the Borrower hereunder shall constitute a default under the Mortgage and Note which will enable the City thereunder, after notice and an opportunity to cure as therein provided, to accelerate the Borrower's loan and take such other actions as may be permitted under the terms of the Mortgage.



State of Florida }  
County of Pinellas } S.S.

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of April, 2012 by J. David Page, as the managing member of SP Country Club Homes LLC, a Florida limited liability company. He is personally known to me.

By: Suzanne M. Werner  
Name: Suzanne M. Werner  
Commission No: # DD 930500  
Commission Expiration Date: Feb 5<sup>th</sup> 2014



Prepared by and Hold for:  
R. Carlton Ward, Esq.  
Richards, Gilkey, Fite,  
Slaughter, Pratesi & Ward, P.A.  
1253 Park Street  
Clearwater, FL 33756

## **CERTIFICATE OF AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR COUNTRY CLUB TOWNHOMES**

The undersigned hereby certifies that that the hereinafter described amendments to the Articles of Incorporation and the ByLaws of Country Club Townhomes of Clearwater Owners Association, Inc., a Florida Not for Profit corporation (“Association”) were duly approved as required at a meeting of the membership of the Association held on the 29th day of April, 2014. The aforementioned Articles of Incorporation and Bylaws of the Association are Exhibits “B” and “C”, respectively, to the Declaration of Covenants, Conditions and Restrictions for Country Club Townhomes which was recorded in Official Records Book 17801, beginning at page 774 of the Public Records of Pinellas County, Florida.

### **RECITALS**

1. Article IV-Powers, Section 4.2 is hereby amended and restated in its entirety to read as follows:

#### **ARTICLE IV - POWERS**

4.2 To fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection there with and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association; to borrow money; ~~and~~ Also with the consent of two-thirds (2/3) of each class of membership, the Association may mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

2. Article VI-Voting, Section 6.2 is hereby amended and restated in its entirety to read as follows:

#### **ARTICLE VI - VOTING**

6.2 Class B. The Class B member shall be the Developer and shall be entitled to nine (9) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in Class A membership equals or exceeds the total votes outstanding in the Class B membership, ~~on December 31, 2011, whichever first occurs.~~

3. Article IV – Registered Agent and Office of the Articles of Incorporation are hereby amended and restated in its entirety to read as follows:

ARTICLE IX - REGISTERED AGENT AND OFFICE

The street address of the initial registered office of the Association shall be 1253 Park Street, Clearwater, FL 33756. The registered agent for the Association at the above address shall continue to be R. Carlton Ward.

4. Article VII – Amendment of Bylaws, is hereby amended and restated in its entirety to read as follows:

ARTICLE VII - AMENDMENT OF BYLAWS

The Bylaws of the Association may be modified, amended or revoked, unless specifically prohibited elsewhere herein, at any regular or special meeting of the members of the Association by ~~not less than seventy-five per cent of the votes~~ not less than two-thirds (2/3) of the entire membership of the Association, provided that no less than fourteen (14) days' notice of said meeting has been given to the members of the Association, which notice contained a full statement of the proposed modification, change or revocation.

IN WITNESS WHEREOF, this amendment is executed this 15 day of April, 2014.

Signed and sealed in the presence of:

Country Club Townhomes of Clearwater Owners Association, Inc., a Florida Not for Profit corporation

Suzanne Werner  
Print Name: Suzanne Werner

By: Peter Leach  
Peter Leach, its President

[Signature]  
Print Name A. Sherard

STATE OF FLORIDA  
COUNTY OF PINELLAS

The foregoing was acknowledged before me this 15 day of April, 2014 by Peter Leach, as President of Country Club Townhomes of Clearwater Owners Association, Inc., a Florida Not for Profit corporation, on behalf of the corporation, who is personally known to me.

[Signature]  
Notary Public/My Commission Expires:

