

**DECLARATION OF GENERAL PROTECTIVE COVENANTS AND EASEMENTS**

THIS DECLARATION is made this 12 the day of JUNE, 1999 by BAY INVESTMENTS OF PALM COAST, L.C., its successors or assigns (the Declarant) and joined in by THE SANCTUARY AT PALM COAST HOMEOWNERS' ASSOCIATION, INC., a Florida corporation not for profit (the Association).

**WITNESSETH:**

**WHEREAS, Declarant is the owner of the Committed Property (as that term is hereinafter defined); and**

**WHEREAS, the Committed Property is located in Flagler County, Florida, and is legally described on Exhibit "A" attached hereto; and**

**WHEREAS, Declarant intends to develop the Committed Property under the general name of The Sanctuary, as described in Article II hereof; and**

**WHEREAS, Declarant by this Declaration imposes those certain protective covenants, conditions and restrictions set forth herein upon the land legally described on Exhibit "A" attached hereto; and**

**WHEREAS, Declarant may, in its sole discretion, from time to time, convey, lease or grant a license or other use right to lands within or without the Committed Property by deed, easement, or otherwise to the Association (which must accept the same), or Declarant may, in its sole discretion, cause additional parties to do so, for the purpose of maintenance, landscaping, drainage, recreation or other purposes that will be for the use and benefit of some or all of its "Members" (as that term is hereinafter defined) and of families, tenants and guests; and**

**WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities established as aforesaid to create a not-for-profit corporation pursuant to Chapter 617, Florida Statutes, known as The Sanctuary at Palm Coast Homeowners' Association, Inc., which Association has joined in this Declaration and to which there has been and will be delegated and assigned certain powers and duties of operation, administration, maintenance and repair of portions of the Committed Property, including the collection and disbursement of the Operating Expenses (as that term is hereinafter defined), all as more particularly set forth herein;**

**NOW, THEREFORE, Declarant declares that the Committed Property is and shall be owned, used, sold, conveyed, encumbered, demised, and occupied subject to the covenants, conditions, restrictions, easements, reservations, regulations, burdens, liens and all other**

provisions of this Declaration, all as hereinafter set forth, which shall run with the Committed Property and be binding on all parties having any right, title or interest in the Committed Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each Owner (as that term is hereinafter defined) thereof.

## ARTICLE I

### Definitions

The following words and phrases when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Architectural Review Committee" or "Committee" shall mean and refer to a committee appointed by Declarant pursuant to Article X, Section 3, herein.

(b) "Articles" shall mean and refer to the Articles of Incorporation of The Sanctuary at Palm Coast Homeowners' Association, Inc., a Florida corporation not for profit, attached hereto as Exhibit "B," as may be amended from time to time.

(c) "Association" shall mean and refer to The Sanctuary at Palm Coast Homeowners' Association, Inc., a Florida corporation not for profit, its successors or assigns, which has its principal place of business in Flagler County, Florida. The Association is NOT a condominium association.

(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, attached hereto as Exhibit "C," as may be amended from time to time.

(f) "Committed Property" shall initially mean and refer to the property described in Exhibit "A" attached hereto and made a part hereof, as the same may be added to from time to time by the Declarant by means of Supplemental Declarations.

(g) "Common Area" shall mean and refer to any portion of Committed Property owned or maintained by the Association and devoted to the common use and enjoyment of all Owners together with any improvements thereon. Common Areas may include, without limitation, any commonly owned open space, utilities, private streets, sidewalks, street lights, signage, recreation facilities, and Surface Water or Stormwater Management Systems within or about the Committed Property, all as further described in Article IV hereof.

(h) "County" shall mean and refer to Flagler County, Florida.

(i) "Declarant" shall mean and refer to Bay Investments of Palm Coast, L.C. their designees, successors and assigns.

(j) **"Declaration"** shall mean and refer to this Declaration of General Protective Covenants for The Sanctuary as may be amended or supplemented from time to time.

(k) **"Dwelling Unit"** shall mean and refer to a residential home of whatever style or type as may be constructed in The Sanctuary to be used as an abode for one family and shall also include the platted lot intended for the construction of such a residential home.

(l) **"Institutional Mortgagee"** shall mean and refer to (a) a lending institution having a first mortgage lien upon a Dwelling Unit including any of the following institutions: (a) Federal or State Savings and Loan or Building and Loan Association, a national or state bank or real estate investment trust, or mortgage banking company doing business in the State of Florida, or life insurance company; or (b) any "Secondary Mortgage Market Institution" including the Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration and Veterans Administration and such other Secondary Mortgage Market Institution as the Board shall hereafter approve in writing which has acquired a first mortgage upon a Dwelling Unit; or (c) any and all investors or lenders, or the successors and assigns of such investors or lenders which have loaned money to Declarant to acquire, or construct improvements upon the Committed Property and who have a mortgage lien on all or a portion of the Committed Property securing such loan; or (d) such other lenders as the Board shall hereafter approve in writing which have acquired a first mortgage upon a Dwelling Unit.

(m) **"Member"** shall mean and refer to all those Owners who are members of the "Association."

(n) **"Operating Expenses"** shall mean and refer to the expenses for which Owners are liable to the Association as described in this Declaration and in any other document governing The Sanctuary, and include, but are not limited to, the costs and expenses incurred by the Association in fulfilling its obligations hereunder and in administering, operating, owning, constructing, reconstructing, financing, maintaining, repairing and replacing the Common Areas, other real property, or portions of either and improvements thereon, as well as expenses incurred by the Association in fulfilling its obligations under this Declaration and any other document governing The Sanctuary, which mean and include the costs and expenses described in these documents as such and include regular and special assessments made by the Association in accordance with the terms hereof.

(o) **"Owner"** shall mean and refer to the record owner (other than Declarant), whether one or more persons, firms or entities, who has acquired fee simple title to any lot or Dwelling Unit.

(p) **"The Sanctuary"** shall mean and refer to the residential development being constructed by Declarant and located on the Committed Property.

(q) **"Property Line"** shall mean and refer to the perimeter boundary line of any lot within the Committed Property.

(r) "Property Plan" shall mean and refer to the Plat(s) or site plans of the Committed Property attached hereto as Exhibit "D" as may be amended or added to from time to time.

(s) "Rules and Regulations" shall mean and refer to the rules and regulations promulgated by the Board in accordance with the terms of this Declaration.

(t) "Surface Water or Stormwater Management System" shall mean a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42, Florida Administrative Code. All Surface Water or Stormwater Management Systems located on the Committed Property or Common Areas of the Sanctuary shall be maintained by the Association as part of the Operating Expenses.

(u) "Supplemental Declaration" shall mean and refer to an instrument executed by Declarant for the purpose of subjecting additional real property to this Declaration, imposing additional conditions or restrictions on the Committed Property, or for such other purposes as more fully described herein.

## ARTICLE II

### Declarant's Rights and Powers

Section 1. Committed Property. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN CONTAINED OR CONTAINED IN ANY OTHER DOCUMENT, ONLY THAT PORTION OF THE SANCTUARY WHICH IS COMMITTED PROPERTY (AS THAT TERM IS DEFINED IN THIS DECLARATION) SHALL BE SUBJECT TO THE PROVISIONS OF THIS DECLARATION AND ANY OTHER DOCUMENT GOVERNING THE COMMITTED PROPERTY.

Section 2. Additions to Committed Property; Certain Amendments. Declarant shall have the right, and hereby reserves the right, from time to time to bring other property not presently part of the Sanctuary into the Committed Property. Any additional properties brought within the scheme of this Declaration may contain Dwelling Units, lots or Common Areas and shall become part of the Association.

Declarant, its successors and assigns, shall not be obligated to add to the Committed Property and bring within the scheme of this Declaration any or all of the remaining portions of the Sanctuary. The additions and amendments authorized under this subsection shall only be made by Declarant, shall not require the consent or approval of the Association, Members or any other person or entity and shall be made by the recording in the Public Records of the

County of a Supplemental Declaration with respect to the additional property, which shall extend the scheme of this Declaration to such property or modify the Declaration with respect to such additional properties as hereinafter set forth. Such Supplemental Declaration(s) shall identify Dwelling Units, lots and Common Properties within the properties described therein. Declarant's rights under this Section 3 are paramount to the provisions of Section 7 of Article XII of this Declaration.

Supplemental Declarations may contain such complementary additions and modifications of this Declaration as may be necessary to reflect the different character, if any, of that portion of The Sanctuary or the additional properties which are the subject of such Supplemental Declaration as are not inconsistent with the scheme of this Declaration as determined by Declarant. Further, such Supplemental Declarations may contain provisions relating to such portions of The Sanctuary and/or such additional property, or any portions thereof, dealing with, among other things, assessments and the basis thereof, rules and regulations, architectural controls and other provisions consistent with the nature of the development of such properties and pertaining to all or part of such portion and/or such additional properties to the exclusion of other portions of the Sanctuary.

The provisions of this Article II, Section 3, cannot be amended without the written consent of Declarant and any amendment of this Article II, Section 3 without the written consent of Declarant shall be deemed null and void.

**Section 3. Warranties.** Upon conveyance of lot or a Dwelling Unit by Declarant to an Owner, Declarant shall provide such Owner with only those warranties specified in the Owner's Agreement for Sale and Purchase. NOTWITHSTANDING ANYTHING CONTAINED HEREIN, EXCEPT FOR THE WARRANTIES DESCRIBED IN THIS SECTION 3, DECLARANT DISCLAIMS ANY OTHER EXPRESS WARRANTIES OR ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS AS TO THE LOT OR DWELLING UNIT, AND ALL ITEMS OF PERSONAL PROPERTY CONTAINED THEREIN, WHETHER ARISING FROM CUSTOM, USAGE, COURSE OF TRADE, CASE LAW OR OTHERWISE, OR ANY OTHER WARRANTIES WHATSOEVER.

**Section 4. Changes in Use or Boundaries.** Declarant shall have the right, by an amendment or Supplemental Declaration executed by Declarant alone, without the consent of the Association, any Institutional Mortgagees or the Owners, to take such action as may be required to relocate portions, change the use, or modify the boundaries of any of the Common Areas notwithstanding that such portions of the Common Areas may be Committed Property.

### ARTICLE III

#### Membership and Voting Rights in the Association

**Section 1. Membership.** Every person or entity who is a record owner of a fee or undivided fee interest in any Dwelling Unit or lot which is or is at any time made subject to this Declaration shall be a Member of the Association. Membership shall be appurtenant to and inseparable from ownership of a Dwelling Unit or lot. Transfer of Dwelling Unit or lot ownership either voluntarily or by operation of law shall terminate membership in the Association and said membership shall thereupon be vested in the transferee.

When any one Dwelling Unit or lot is owned by more than one person, firm, individual, corporation or other legal entity, the composite title holder shall be and constitute one Member of the Association. Any person, firm, individual, corporation or legal entity owning more than one Dwelling Unit or lot shall be as many Members as the number of Dwelling Units or lots owned.

**Section 2. Classes of Memberships and Voting Rights.** The Association shall have two classes of voting membership:

**Class A.** Class A Members shall be all of those Owners as defined in Section 1, with the exception of Declarant. The Class A Members shall be entitled to one membership interest and one vote for each Dwelling Unit or lot in which they hold the interests required for membership by Section 1.

**Class B.** Class B Members shall be Declarant. The Class B Member shall be entitled to ten (10) membership interests and ten (10) votes for each Dwelling Unit or lot it holds the interest required for membership by Section 1. The Class B Member shall be entitled to elect a majority of the Board of Directors until such time that the last Dwelling Unit or lot owned by Declarant within the Sanctuary has been sold and conveyed by the Declarant.

Upon the transfer of title of any Dwelling Unit or lot which is held for sale by Declarant to an Owner, the Class B membership interest appurtenant to such Dwelling Unit shall be automatically converted to a Class A membership interest.

When any one Dwelling Unit or lot is owned by more than one person, firm, individual, corporation or other legal entity, the voting rights pertaining to such Dwelling Unit or lot shall be as prescribed in the Articles or Bylaws.

**NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, DECLARANT SHALL HAVE THE RIGHT TO ELECT A MAJORITY OF THE BOARD OF DIRECTORS OF THE ASSOCIATION PURSUANT TO §617.30, FLORIDA STATUTES, AS PRESENTLY CONSTITUTED OR HEREAFTER AMENDED.**

## ARTICLE IV

### Common Areas

**Section 1. Common Area.** Common Areas are those portions of the Committed Property designated as such in this Declaration, a Supplemental Declaration, Property Plan or other written instrument recorded in the Public Records of the County. Common Areas shall include, but not be limited to, all Surface Water and Stormwater Management Systems located on the Committed Property. So long as Declarant appoints a majority of the Board of Directors, the Common Areas shall be only that property designated as such by Declarant. Declarant shall have the right, and the power, but neither the duty nor the obligation, in its sole discretion, to, or to cause others to, convey, lease or grant a license or other use right to real property within or without the Sanctuary whether it be Committed Property or not, to the Association for such purposes as may be expressed in the instrument of conveyance, lease or grant of easement or use. No such real property shall be considered to be Common Area until actually so conveyed, leased or grant of easement or other use right is created by a written instrument. The Association shall accept from Declarant, or others approved by Declarant, any such conveyance, lease, grant of easement or grant of use right.

**Section 2. Easements.** Declarant reserves the right for itself and its designees to grant additional easements for use, ingress and egress, governmental services and utilities over, across and under the Common Areas, for the use and benefit of persons designated in such easements, whether or not such persons are Members of the Association.

**Section 3. Maintenance.** The Association may enter into agreements with other persons or entities, to provide for the maintenance, upkeep and repair of any of the Common Area or any other property which the Association has the obligation to maintain, upkeep and repair under this Declaration.

**Section 4. Title in Association.** Declarant or its successors and assigns shall convey and transfer to the Association the record fee simple title of those portions of the Committed Property that constitute the Common Areas. The Association shall accept such conveyance subject to this Declaration. To preserve and enhance the property values and amenities of the Sanctuary, the Common Areas, and any facilities now or hereafter built or installed thereon, the Association shall at all times maintain such facilities in good repair and condition and shall operate same in accordance with high standards. The maintenance and repair of the Common Areas may include, but not be limited to, the repair and maintenance of roadways, landscaped areas, walkways, recreational facilities (if any), streetlights, entrance features or signs. The Association, by its execution of this Declaration, covenants and agrees to accept all conveyances of Common Areas. This section shall not be amended to reduce or eliminate the obligation for maintenance or repair of the Common Areas without the prior written consent of Declarant.

The Association shall be responsible for the maintenance thereof in a continuous and satisfactory manner, compliance with any continuing obligation imposed on the owner of any

such Common Area by the terms of any permit issued by a governmental agency having jurisdiction over such Common Areas. The Association shall be responsible for the maintenance, operation and repair of the surface water or Stormwater Management System. Maintenance of the surface water or Stormwater Management System shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted, or, if modified, as approved by the St. Johns River Water Management District. The Association shall be responsible for the payment of taxes assessed against Common Areas and any improvements and any personal property thereon accruing from and after the conveyance to the Association. Such taxes shall be prorated as of the date of conveyance. Prior to conveyance of the title thereto to the Association, the taxes assessed against such property shall be paid by Declarant or its successors or assigns.

**Section 5. Title to Additional Common Areas.** From time to time, Declarant reserves the right, but not the obligation, to convey to the Association legal title to additional Common Areas.

Declarant shall not be obligated to bring any additional Common Areas within the scheme of this Declaration nor to convey title to such Common Areas to the Association. The additions authorized under this section may be made by Declarant in accordance with Article II, Section 2, of this Declaration.

**Section 6. Waterbodies, Lakes and Drainage Systems.** Certain portions of the Common Area may contain waterbodies, lakes and Surface Water or Storm Water Management Systems (hereafter "Lakes"). With respect to any such Lake which becomes part of the Committed Property:

(a) The boundaries of any Lake shall be subject to accretion, reliction and other minor natural changes.

(b) Swimming in any Lake is prohibited. No motorized boats, rafts or other water craft shall be permitted on a Lake, except for boats used by the Association, their agents, Declarant, Declarant's designees or a governmental agency. ANY PERSONS WHO SWIM IN OR OTHERWISE USE A LAKE SHALL DO SO AT THEIR OWN RISK AND SHALL HOLD DECLARANT AND THE ASSOCIATION HARMLESS FROM ANY CLAIM OR LOSS ARISING THEREFROM.

(c) No fence, wall, gate, hedge, dock, davit or other similar or dissimilar structure shall be constructed on any lot abutting a Lake.

(d) Except as otherwise provided in this Declaration or Supplemental Declaration, the Association shall maintain all Lakes. A nonexclusive easement is hereby reserved in favor of Declarant, the Association and their designees for ingress, egress, and



access to any portion of the Committed Property in order to maintain a Lake. All costs of maintenance of any Lake shall be an Association Operating Expense, unless otherwise provided in this Declaration or in a Supplemental Declaration.

(e) No person, other than the Declarant or Association with the Declarant's written permission, shall withdraw water from any Lake for any purpose.

## ARTICLE V

### Grant and Reservation of Easements

**Section 1. Easement of Enjoyment.** Each Member and each tenant, agent or invitee of Members shall have a right and easement of enjoyment in and to the Common Areas, and such easement shall be appurtenant to and shall pass with the title of the Dwelling Unit or lot, subject to this Declaration, including the following:

- (a) The right and duty of the Association to levy assessments against each Dwelling Unit or lot for the purpose of maintaining the Common Areas and facilities.
- (b) The right of the Association to adopt and enforce rules and regulations governing the use of the Common Areas and all facilities at any time situated thereon.
- (c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board of Directors, provided that no such dedication, transfer, or determination as to the purposes or as to the conditions thereof, shall be effective unless seventy-five (75%) percent of the Members shall vote in favor thereof at a meeting of the Members called for such purpose, or unless an instrument signed by Members entitled to cast seventy-five (75%) percent of the eligible votes have been recorded agreeing to such dedication, transfer, purpose or condition and unless written notice of the action is sent to every Member at least ninety (90) days in advance of any action taken.
- (d) The right of Declarant and the Association to grant and reserve easements and rights-of-way in, through, under, over and across the Committed Property for the installation, maintenance, and inspection of lines and appurtenances for public or private water, sewer, drainage, cable television and other utilities, and the right of Declarant to grant and reserve easements and rights-of-way in, through, under, over, upon and across the Committed Property for the completion of the Development.

**Section 2. Access Easements.** Declarant does hereby establish and create for the benefit of the Association and for the benefit of any and all Owners of Dwelling Units or lots subject to this Declaration, their tenants, invitees and Institutional Mortgagees, and does hereby give, grant and convey to each of the aforementioned, an easement for right-of-way for ingress and egress by vehicles or on foot, as practicable, in, through, over, under and across the streets, roads, and walks within Common Areas (as they may be built or relocated in the future) for all purposes.

**Section 3. Easement for Encroachments on Dwelling Units, Lots or Common Areas.**

(a) If any portion of any roadway, walkway, fence, gate, parking area, roof drainage system, roof, trellis, water line, sewer line, utility line, sprinkler system or any other structure as originally constructed by Declarant or its designee, successor or assign encroaches on any Dwelling Unit, lot or Common Area, it shall be deemed that the Owner of such Dwelling Unit, lot or Common Area has granted a perpetual easement to the Owner of the adjoining Dwelling Unit, lot or Common Area or the Association as the case may be, for continuing maintenance and use of such encroaching roadway, walkway, fence, gate, parking area, roof drainage system, roof, trellis, water line, sewer line, utility line, sprinkler system or other structure originally constructed by Declarant. The foregoing shall also apply to any replacement of any such roadway, walkway, fence, gate, parking area, roof drainage system, roof, trellis, water line, sewer line, utility line, sprinkler system or other structure, if same are constructed in substantial conformance to the original. Other encroachments may hereafter be maintained as provided in a Supplemental Declaration. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of this Declaration.

(b) There shall be an easement for encroachment in favor of the Association and all Owners in the event any Common Area or Dwelling Unit now or hereafter encroaches upon any other Dwelling Unit or lot as a result of minor inaccuracies in survey, construction or reconstruction or due to settlement or movement. The encroaching improvements shall remain undisturbed for so long as the encroachment exists. Any easement for encroachment shall include an easement for the maintenance and use of the encroaching improvement in favor of the Owners, their designees, mortgagees and the Association. If any portion of any Dwelling Unit encroaches upon the Common Areas as a result of the construction, reconstruction, repair, shifting, settlement or moving of any portion of the Committed Property, a valid easement for the encroachment and for the maintenance of same shall exist so long as the encroachment exists.

**Section 4. Utility Easement.** Subject to Declarant's prior written approval, Declarant, at its discretion, may grant to the Owner of each Dwelling Unit and lot a non-exclusive perpetual easement on, over, under and across the Common Area and Committed Property for the installation, maintenance, operation, repair and replacement of utility lines, including water and sanitary sewer lateral pipes servicing the Dwelling Unit, together with wires, pipes, conduits, cable television lines, telephone lines and equipment and drainage lines.

**Section 5. Reservation of Easement by Declarant.**

**(a) Easements for Development and Sales.**

(1) Declarant reserves the easements, licenses, rights and privileges of a right-of-way in, through, over, under and across the Committed Property, including all Dwelling Units and lots, for the purpose of constructing adjacent properties and completing its work in developing and providing for the development of the Committed Property; and, toward this end, reserves the right to grant and reserve easements and rights-of-way, through, under, over and across the Committed Property, for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage, cable television, electric and other utilities and for any other materials or services necessary for the completion of such work.

(2) Declarant also reserves the right to connect with and make use of the utility lines, wires, pipes, conduits, cable television, sewers, and drainage lines which may from time to time be in or along the streets and roads of other areas of the Common Areas.

(3) Declarant also reserves the right for itself, its designees, successors and assigns, to continue to use the Committed Property and any roadways, sales offices, model homes, signs and parking spaces located on the Committed Property at no charge, in its efforts to market or develop Dwelling Units or lots in The Sanctuary.

(4) Easements are hereby reserved to the Declarant for the installation, construction, reconstruction, maintenance, operation and inspection of any and all services and utilities, including, but no limited to cable television, cablevision, sidewalks drainage or waterways, which easements shall be confined to a 5 foot width along the interior boundaries of the rear property lot line, side property line and front property line to every lot.

**(b) Amendment.** This section may not be amended without the prior written consent of Declarant.

## ARTICLE VI

### Maintenance

**Section 1. Maintenance of Common Areas.** The Association shall at all times maintain in good repair, operate, manage, insure and replace as often as necessary, any and all improvements situated on the Common Areas, including but not limited to, any courtyards, fences, gates, recreational facilities, lawns, landscaping, sprinkler systems, paving, drainage structures, street lighting fixtures and appurtenances, sidewalks and other structures, and utilities, all of such work to be done as ordered by the Board of Directors of the Association acting on a majority vote of the Board members.

**Section 2. Dwelling Unit Maintenance.** The Owner is responsible to maintain and repair all portions of the Dwelling Unit, including but not limited to, the exterior of the Dwelling Unit, any landscaping, utility lines, paving and any other improvements located on the lot on which the Dwelling Unit is located. Owners shall be responsible for the maintenance, repair and replacement, if applicable, of water and sanitary sewer lateral pipes servicing their Dwelling Units, which laterals extend from the applicable water and sewer main to the Dwelling Units, notwithstanding that a portion of such lateral may be located within the Common Area. Notwithstanding the provisions of Section 1 of this Article, each Owner of a Dwelling Unit shall be responsible to mow and provide routine maintenance to any portion of the right of way between the Dwelling Unit's Property Line and the edge of pavement of the right of way, whether such area be described as Common Area or a portion of the public right of way.

### **Section 3. Assessments.**

(a) All maintenance performed by the Association pursuant to Section 1 above and all expenses hereunder shall be paid for by the Association as Operating Expenses through assessments imposed by the Board of Directors in accordance with Article VII. Such assessments shall be against all Dwelling Units and lots equally for Operating Expenses attributable to the Association's maintenance of Common Areas. No Owner may waive or otherwise escape liability for the assessments for such maintenance by non-use of the Common Areas or abandonment of his right to use the Common Areas.

(b) Assessments shall include payment for insurance and taxes on the Common Areas. The cost and expense of Association provided maintenance shall be funded by an Association assessment against all Owners, as the case may be, and shall be paid by the Association notwithstanding that title to a Common Area may be vested in Declarant.

**Section 4. Disrepair of Dwelling Units.** If the Owner of any Dwelling Unit shall fail to maintain the exterior of his Dwelling Unit, and the improvements situated thereon, as required by any provision of this Declaration, in a manner reasonably satisfactory to the Board of Directors of the Association or any committee established by such Board, except for such areas

as the Association is required to maintain, upon direction of the Board of Directors, the Association shall have the right, through its agents and employees, to enter upon the Dwelling Unit to maintain and restore the improvements making up such Dwelling Unit. The cost of any maintenance supplied by the Association pursuant to this Section shall be added to and become part of the assessment to which such Dwelling Unit is subject.

**Section 5. Access at Reasonable Hours.** For the purpose solely of performing the maintenance required by this Article, the Association, through its duly authorized agents and employees, shall have the right without notice to enter upon the property of the Owner. Except in the case of an emergency, such entry shall be at reasonable hours on any day except Sunday and legal holidays.

**Section 6. Management.** The Association, through the action of its Board of Directors, shall have the right to employ a manager or management firm which employment may either be on the basis of an employee of the Association or as an independent contractor.

## **ARTICLE VII**

### **Covenant for Maintenance Assessments**

**Section 1. Creation of the Lien and Personal Obligation of the Assessments.** Each Owner of any Dwelling Unit or lot by acceptance of a deed therefor or instrument of conveyance, whether or not it shall be so expressed in such deed or other instrument of conveyance, including any purchaser at a judicial sale, or by the acquisition of title in any other manner, shall be deemed to covenant and agree to pay to the Association annual assessments or charges for the maintenance and expenses as provided in this Declaration, including such reasonable reserves as the Association may deem necessary, special assessments as provided in this Article, and assessments for maintenance as provided herein. Assessments for Operating Expenses shall be fixed, established and collected from time to time as herein provided. The annual, special and other assessments, together with such interest and costs of collection as hereinafter provided, shall, upon the recordation of a claim of lien, be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest and costs of collection, shall also be the personal obligation of the person who is the Owner of such property at the time when the assessment became due. All assessments by the Association for Operating Expenses shall be assessed against all Dwelling Units and lots equally. No Owner may waive or otherwise escape liability for the assessments provided herein by non-use or abandonment. Furthermore, the obligation of the Association and the Owners for assessments and the obligation for maintenance shall commence upon conveyance of the Dwelling Unit or lot.

**Section 2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners in the Sanctuary and, in particular, for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment

of the appropriate portion of the Common Areas and of the Dwelling Units and lots situated upon the Committed Property, including, without limiting the foregoing, the payment of taxes (if any), insurance, repair, replacement, maintenance, additions, and the cost of labor, equipment, materials, utilities, services, management and supervision, as well as any other costs set forth in this Declaration for which the Association is responsible.

**Section 3. Budget and Commencement of Payment.**

(a) The Association's Board of Directors shall, from time to time, but at least annually, fix and determine a budget representing the sum or sums necessary and adequate for the continued operation of the Association. The Board shall determine the total amount of Operating Expenses, including the operational items such as insurance, repairs, replacements, reserves, maintenance and other expenses, as well as charges to cover any deficits from prior years and capital improvements and reserves approved by the Board. The total annual assessments and any supplemental assessments shall be shared by all owners of Dwelling Units and lots based upon the formula and terms and provisions set forth herein and in the Articles and Bylaws.

(b) Each Owner of a Dwelling Unit or lot shall commence paying his share of the Association assessments on the day title to the Dwelling Unit or lot is conveyed by deed from Declarant to the first grantee thereof. Subject to the provisions of Section 4 immediately below (which provisions are only applicable during any guarantee period or any extension thereof), the assessment for Operating Expenses for each Dwelling Unit and lot shall be the dividend arrived at by dividing the total anticipated Operating Expenses reflected by the budget, other than those Operating Expenses which are properly the subject of a special assessment, by the total number of all Dwelling Units and lots on the Committed Property as of the date the budget was adopted. The total number of Dwelling Units and lots responsible for payment of Operating Expenses may be adjusted from time to time in accordance with this Declaration. All questions regarding the number of Dwelling Units and lots subject to assessments shall be determined by the Declarant prior to the expiration of Declarant's Class B membership and, thereafter, by the Association.

**Section 4. Interim Assessment Period.** For a period of one (1) year commencing with the date of the conveyance by Declarant of the first Dwelling Unit or lot within the Committed Property, the assessments of the Association shall be in the amount as specified in the initial estimated operating budget of the Association (the "Interim Assessment Period"). During the Interim Assessment Period, Declarant shall pay the amount of Operating Expenses of the Association incurred during that period and not produced by the assessments at the level stated in the initial estimated operating budget receivable from other Dwelling Unit or lot Owners, as provided herein, and during said period, Declarant shall not be required to pay any specific sum for its share of the Operating Expenses of the Association as to any Dwelling Units or lots owned by it. Provided, however, Declarant shall pay the deficit during said period. During the Interim Assessment Period, however, Declarant's responsibility to fund deficits in the budget is not intended to include, and does not include and shall never be deemed to include, expenses or fees called for or occasioned by an action or decision of the

Board of Directors when Owners, other than Declarant, elect a majority of the Board of Directors, when such expenses or fees are inconsistent with expenses or fees preceding that time. In such event, Declarant, at its option, may pay the sums required to be paid by it; or, Declarant, at its option, may terminate the Interim Assessment Period. In such case, it shall pay the assessments of the Association as to the Dwelling Units and lots owned by it.

Declarant hereby reserves the right, to be exercised in its sole discretion, to extend from time to time the termination date of the Interim Assessment Period for such period of time as Declarant determines. Should Declarant elect to extend the Interim Assessment Period, Declarant shall notify the Board of Directors of the Association of its election prior to the termination date of the original term or an extended term, and such notice shall set forth the new termination date of the Interim Assessment Period. Declarant reserves the right, in its sole discretion, to require the Board of Directors of the Association to increase the amount of the assessments due from Owners other than Declarant for each extension by an amount not to exceed twenty five (25%) percent of the amount of assessment for the preceding period, exclusive of any special assessments levied in the preceding period. Provided, however, in no event may Declarant require the Board of Directors to increase the assessment due from Owners other than Declarant by more than twenty five (25%) percent for each year of extension of the guarantee. The Board of Directors of the Association agrees to comply with the requirements of Declarant, as provided herein, and increase the assessments payable from Owners other than Declarant during any extension of the Interim Assessment Period. Should the Board of Directors of the Association fail to increase such assessments, as may be required by Declarant hereunder, Declarant shall have the unconditional right to terminate the Interim Assessment Period, as contained herein; or, Declarant shall have the right to specifically enforce its rights as provided herein.

Section 5. Due Dates; Duties of the Board of Directors. All assessments shall be payable monthly, in advance, on the first day of the calendar month, or on such other basis as is ordered by the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Dwelling Unit and lot and shall prepare a roster of the Dwelling Units and lots and assessments applicable, which shall be kept in the office of the Association and shall be open to inspection by any Member. Upon the written request of a Member or his Institutional Mortgagee, the Board shall promptly furnish such Member or his Institutional Mortgagee with a written statement of the unpaid charges due from such Member.

Section 6. Effect of Non-Payment of Assessment; The Personal Obligation of the Member; The Lien; Remedies of the Association. If an assessment is not paid on the date when due, then at the option of the Board, such assessment, together with the balance of the annual assessment established by the Board, shall become delinquent and shall, together with such interest thereon, late charges and the cost of collection thereof, including reasonable attorneys' fees and court costs, thereupon become a continuing lien on the Member's Dwelling Unit or lot which shall bind such property in the hands of the Member, his heirs, devisees, personal representatives and assigns. Such lien shall be prior to all other liens except: (a) tax or assessment liens of the taxing division of any governmental authority, including but not limited

to, state, county and school district taxing agencies; and (b) all sums unpaid on any bona fide first mortgage held by an Institutional Mortgagee of record encumbering the Dwelling Unit or lot. The personal obligation of the Member who was the Owner of the Dwelling Unit or lot when the assessment fell due, to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them, although the lien shall continue to encumber the Dwelling Unit or lot.

If the assessment is not paid within ten (10) days after the due date, the assessment shall bear interest from the due date at the maximum permissible rate in the State of Florida. A late charge of up to \$25.00 may also be assessed by the Board and the Association through its Board. The Board may bring an action at law against the Member or former Member personally obligated to pay the same or it may bring an action to foreclose the lien against the Dwelling Unit or lot. There shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorneys' fees to be fixed by the court, together with the cost of the action and the aforesaid late charge.

**Section 7. Selling or Leasing of Dwelling Units, Etc.**

(a) No Member shall convey, mortgage, pledge, hypothecate, sell or lease his Dwelling Unit or lot unless and until all unpaid assessments assessed against such Dwelling Unit or lot shall have been paid as directed by the Board of Directors; such unpaid assessments, however, may be paid out of the proceeds from the sale of the Dwelling Unit or lot or by the purchaser of such Dwelling Unit or lot. Any sale or lease of the Dwelling Unit or lot in violation of this section shall be voidable at the election of the Board of Directors.

(b) Upon the written request of a Member or his Institutional Mortgagee, the Board or its designee shall furnish a written statement of the unpaid charges due from such Member which shall be conclusive evidence of the payment of amounts assessed prior to the date of the statement but unlisted thereon. A reasonable charge may be made by the Board for issuance of such statements.

(c) The provisions of this section shall not apply to the acquisition of a Dwelling Unit or lot by an Institutional Mortgagee who shall acquire title to such by foreclosure or by deed in lieu of foreclosure. In such event the unpaid assessments against the Dwelling Unit which were assessed for Operating Expenses and became due prior to the acquisition of title by such Institutional Mortgagee shall be deemed waived by the Association and shall be charged to all other members of the Association as an Association expense. Such provisions shall, however, apply to any assessments which are assessed and become due after the acquisition of title by the Institutional Mortgagee and to any purchaser from such Institutional Mortgagee.



(d) Whenever the term Dwelling Unit or lot is referred to in this section, it shall include the Member's interest in the Association and the Member's interest in any property acquired by the Association. Any Member may convey or transfer his Dwelling Unit or lot by gift during his lifetime or devise the same by will or pass the same by intestacy.

(e) The provisions of this section shall not apply to Declarant. This section may not be amended without the prior written consent of Declarant.

**Section 8. Subordination of Lien.** The lien for assessments provided for in this Article shall be superior to all other liens, except tax liens, mortgage liens in favor of Institutional Mortgagees and mortgage liens in favor of mortgagees under mortgages now existing or hereafter granted by Declarant, as mortgagor.

**Section 9. Capital Improvements.** Funds necessary for capital improvements, emergencies or non-recurring expenses may be levied by such Association as special assessments, upon approval of a majority of the Board of Directors of such Association. If the amount of such special assessment is estimated to exceed the sum of \$4,000.00, the assessment must be approved by two-thirds favorable vote of the Members of such Association voting at a meeting or by ballot as may be provided in the Bylaws of such Association.

**Section 10. Certificate of Assessment.** The Association shall furnish to any Owner liable for an assessment a certificate in writing signed by an officer of the Association, setting forth whether such assessment has been paid as to any particular Dwelling Unit or lot. Such certificate shall be conclusive evidence of payment of any assessment to the Association therein stated to have been paid.

**Section 11. Capital Contribution.** Upon the initial conveyance of title to a Dwelling Unit or lot from the Declarant to an Owner, such Owner shall pay the Declarant, in addition to any other sums required, a capital contribution equal to two (2) months' installment of the then current Association Assessment. The Capital Contribution shall be held by the Declarant on behalf of the Association and may be used to pay start-up expenses, insurance premiums, utility deposits and delinquent assessments, and to meet unforeseen expenditures or to acquire additional equipment or services. The Capital Contribution Fund may or may not earn interest as Declarant shall determine.

**ARTICLE VIII**  
**Insurance**

**Section 1. Common Areas.**

(a) **General Liability.** The Association, by action of its Board of Directors, shall maintain public liability insurance, to the extent obtainable, covering the Association and each Association Member, lessee and occupant and the managing agent, if any, against liability for any negligent act of commission or omission attributable to them which occurs on or in the Common Areas.

(b) **Additional Insurance.** To the extent obtainable, the Board of Directors may also obtain the following insurance:

(1) Property damage insurance, including vandalism and malicious mischief endorsements, insuring the Common Areas; and,

(2) worker's compensation insurance, if required by law; and,

(3) Directors' and Officers' liability insurance, fidelity insurance and other insurance it may deem proper to protect the Association, its members and property; and,

(4) Such other insurance as the Board may, in its discretion, deem advisable.

(c) **Assured and Loss Payable.** All casualty insurance policies purchased by the Association hereunder shall be for the benefit of the Association and all Owners and their mortgagees as their interests may appear and shall provide that all proceeds covering casualty losses of \$10,000.00 or less shall be paid to the Association. Any sum in excess of \$10,000.00 shall be paid either to the Association or to an insurance trustee as the Association shall determine at the time. An "Insurance Trustee" shall be any bank or trust company or other corporate trustee authorized for and doing business in Florida, as designated by the Board of Directors of the Association. The duty of the Insurance Trustee shall be to receive such proceeds as are paid to it and to hold the same in trust pursuant to the terms of the insurance trust agreement to be executed by the Association and the Insurance Trustee, which shall not be inconsistent with any of the provisions herein set forth.

(d) **Payment of Premiums.** The Board of Directors shall collect and pay the premiums for insurance as a part of the Operating Expenses. Expenses of any Insurance Trustee appointed shall be paid by means of special assessment by the Board.

(e) **Mandatory Repair.** Unless there occurs substantial damage or destruction to all or a substantial part of a Common Area facilities, the Association and the Owners shall use insurance proceeds to repair, replace and rebuild the damage caused by

casualty loss. Related costs and expenses not covered by insurance shall be borne by the Owners in a fair and equal manner.

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

Section 2. Dwelling Units.

(a) Owner's Insurance Coverage. Each Owner shall be required to obtain and maintain adequate insurance on his Dwelling Unit against loss by fire, storm or other hazards or casualty. Each Owner shall also be responsible for purchasing of liability insurance for accidents occurring on his or her Dwelling Unit or lot. The Association shall have no obligation to obtain or carry insurance coverage for any Dwelling Unit or lot or insure against any risk relating to a Dwelling Unit or lot.

(b) Repair or Replacement of Damaged or Destroyed Property. Each Owner shall be required to reconstruct or repair any Dwelling Unit destroyed by fire or other casualty according to the plans and specifications for the original Dwelling Unit. Any changes from the original plans and specifications must be approved by the Committee prior to start of reconstruction or repair. Such reconstruction or repair shall be commenced within thirty (30) days of the casualty and diligently continued until the reconstruction or repair is completed. If the Owner elects not to repair or reconstruct the Dwelling Unit, the damaged structure (including any slab or foundation and any driveway, walkway or similar improvement) shall be cleared from the property within thirty(30) days of the casualty and the property shall be sodded and maintained by the Owner in a neat and attractive condition acceptable to the Association. In no event shall the Owner's failure to rebuild or repair a Dwelling Unit result in any abatement of the assessments due to the Association for that Dwelling Unit.

(c) Association Action - Repair or Demolition of Damaged or Destroyed Dwelling Unit. If no repair or reconstruction has been contracted for or otherwise substantially started by the Owner of a damaged Dwelling Unit within thirty (30) days after a written notice from the Board of Directors that such repair or demolition is required, the Board of Directors of the Association is hereby irrevocably authorized by such Owner, in the discretion of the Board of Directors to initiate the repair or rebuilding of the damaged or destroyed portions of the structure and/or exterior of the Dwelling Unit or to remove the damaged Dwelling Unit if the Board determines that demolition is more practical due to the extent of the damage. The Board of Directors of the Association may advertise for sealed bids from any licensed contractors and may then negotiate with said contractors. The contract or contractors selected to perform the work shall provide full performance and payment bonds for such repair or rebuilding, unless such requirement is waived by the Board of Directors of the Association. The Board of Directors of the Association shall levy a special assessment against the Owner in whatever amount is required to reimburse the Association for the costs of such repair or demolition, which costs shall include a reasonable administrative fee for the

**Association.** Notwithstanding anything to the contrary in this Article, the Association, its Directors or officers, shall not be liable to any person for failure to make any repair to or for the demolition and removal of a damaged Dwelling Unit.

## ARTICLE IX

### The Association

The Association shall have all statutory and common law powers of a Florida corporation not for profit, to the extent they do not conflict with all powers provided in its Articles and Bylaws and all powers granted in this Declaration.

## ARTICLE X

### Building and Use Covenants

**Section 1. Land Use.** The use of a Dwelling Unit, lot or Common Areas by a Member or other occupant shall be subject to the rules, regulations and provisions of this Declaration, the Articles and Bylaws and the Rules and Regulations of the Board of Directors. A Dwelling Unit shall be used only for residential purposes for immediate members of a single family and their guests and invitees.

**Section 2. Building Type.** No building shall be erected, placed or permitted to remain on any lot other than the Dwelling Unit of the type originally constructed by Declarant; including but not limited to sheds and other accessory structures. All building exteriors shall be completed within twelve (12) months from commencement of construction or issuance of a building permit, whichever comes first.

**Section 3. Architectural Control.** (a) No building, wall, fence, decking, paving, swimming pool, storage shed, green house, door screening or other structure or improvement of any nature other than such structures originally constructed by Declarant shall be erected, placed, modified, altered or permitted to remain on any Dwelling Unit, lot or Common Area unless the construction plans and specifications and a plan showing the kind, shape, materials, colors and location of the structure, exterior elevations, and landscaping, as may be required by the Architectural Review Committee have been approved in writing by the Architectural Review Committee. In the case of structures initially constructed by Declarant on a Common Area or lot prior to the conveyance of the Common Area to the Association or the sale of that Dwelling Unit to the initial Owner other than Declarant, no review and approval by the Architectural Review Committee shall be required. All other buildings, walls, fences, or other structures or improvements of any nature, together with the landscaping, shall be erected, placed or altered upon the premises only in accordance with the plans and specifications and

plot plan so approved. Refusal of approval of plans, specifications and plot plan, or any of them, may be based on any ground, including purely aesthetic grounds, which, in the sole discretion of said Architectural Review Committee seems sufficient. Any change in the exterior appearance of any building, wall, fence or other structure or improvements, and any change in the appearance of the landscaping shall be deemed an alteration requiring approval. The Architectural Review Committee may promulgate such rules and regulations as it deems necessary to carry out the provisions and intent of this paragraph. These rules and regulations may include a general set of design guidelines for all or a portion of the Committed Property. The Committee may set and collect fees for review of submissions and no submission may be deemed approved until the applicable fee has been paid.

(b) The Architectural Review Committee shall review the proposed submission as to the submission's conformance to any design guidelines adopted by the Committee for that area of the Committed Property, the type and quality of materials, harmony of the exterior design and location of the building or structure with existing buildings or structures, location of the building or structure with respect to topography, trees, vegetation and the finished grade elevation and floor slab, exterior color(s) of any building or structure and any other relevant considerations. Upon completion of the proposed improvements, an "as-built" survey showing the finished floor and grade elevation and location of all improvements shall be filed with the Association and with the Architectural Review Committee.

(c) The Architectural Review Committee shall be composed of not less than three (3) nor more than seven (7) persons. The members of the Committee shall be appointed by Declarant, its designees, successors or assigns. The membership, rules of procedure and duties of the Committee shall be prescribed by and, from time to time, changed or modified by Declarant. If and when Declarant deems the circumstances appropriate, Declarant, in its sole discretion, may assign to the Association or any other body, all or part of the rights, duties, and functions of the Architectural Review Committee as set forth in this Declaration. From and after the date of any such assignment, Declarant shall be relieved of any further duties or obligations concerning the Committee and the Association or other body shall assume the duties and obligations and perform the functions as set forth herein.

(d) If the Architectural Review Committee shall disapprove, in whole or in part, any submission required herein, the Committee shall notify the person, firm or entity making the submission of the reasons for such disapproval. If the Architectural Review Committee fails or refuses to approve or disapprove a submission containing all the requirements as set forth herein within twenty-one (21) days after submission is received by the Committee, it shall then be presumed that the submission has been approved by the Architectural Review Committee.

(e) Prior to the commencement of any construction of a Dwelling Unit or alteration thereof, the Owner of such Dwelling Unit or lot shall deposit \$500.00 with the Architectural Review Committee to be held in a non interest bearing account (construction deposit).

(f) The construction deposit may be used to offset any costs incurred by the Association or the Architectural Review Committee in order to:

- (1) Repair damage to any property within the Sanctuary caused by the Owner's builder or builder's subcontractors, suppliers and representatives during construction;
- (2) Pay for the costs of any cleanup of the site and adjacent property not performed by the builder;
- (3) Bring the homesite and any structures thereon into compliance with the requirements of this Declaration; and
- (4) Recover legal fees and other costs incurred by the Association or Architectural Review Committee in order to enforce Owner's compliance with this Declaration.

(g) The Owner must replace any funds withdrawn from the construction deposit within seven (7) day of notification of the withdrawal by the Association or Architectural Review Committee.

(h) The construction deposit shall not be deemed to be the sole fund for recovery if the expenses exceed the construction deposit.

(i) The construction deposit shall be returned to the Owner following the Architectural Review Committee's receipt of a copy of the Certificate of Occupancy relating to the Dwelling Unit and the Architectural Review Committee's inspection and written authority to release the construction deposit.

**Section 4. Regulations.** Regulations promulgated by the Board concerning the use of The Sanctuary shall be observed by the Members and their family, invitees, guests and tenants.

**Section 5. Dwelling Unit Location.** Dwelling Units shall be located in conformance with this Declaration, the applicable ordinances of Flagler County and any specific approvals thereunder, or as originally constructed on a lot by Declarant or its successors or assignee.

**Section 6. Damage to Dwelling Units.** If a Dwelling Unit is damaged, through Act of God or other casualty, then Owner shall promptly cause the Dwelling Unit to be repaired and rebuilt substantially in accordance with the original architectural plans and specifications, unless other plans and specifications are approved, in writing, by the Architectural Review Committee.

**Section 7. Temporary and Accessory Structures.** No accessory building or structure of a temporary character, trailer, or tent shall be permitted on any lot or Common Areas at

any time or used on any lot as living quarters or for storage at any time, either temporarily or permanently, except as permitted by the Architectural Review Committee. No gas tank, gas container or gas cylinder serving a Dwelling Unit shall be permitted to be placed on or about the outside of any Dwelling Unit or any ancillary building and all gas tanks, gas containers and gas cylinders shall be installed underground in every instance where gas is used. In the alternative, gas containers may be placed above ground if enclosed on all sides by a decorative screen approved by the Architectural Review Committee.

**Section 8. Signs.** A single "for sale" sign of no more than five by seven inches may be displayed on a lot during any period when the Dwelling Unit is being offered for sale. The Committee shall have the right to adopt and enforce uniform standards as to the appearance and method of display of such "for sale" signs. No other sign, advertisement or poster of any kind shall be erected or displayed to the public view on the Committed Property without the prior written approval of the Architectural Review Committee as to size, color, content, material, height and location. This paragraph shall not apply to Declarant.

**Section 9. Pets, Livestock and Poultry.** No animals, livestock or poultry of any kind or size shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept as authorized by the Board of Directors of the Association. However, the number of said pets shall not exceed two (2) for any Dwelling Unit, provided that they are not kept, bred or maintained for any commercial purpose and provided that they do not become a nuisance or annoyance to any neighbor. No dogs or other pets shall be permitted to have excretions on any lot, Common Areas or anywhere else within the Committed Property, except in locations designated by the Association.

**Section 10. Nuisances.** No noxious or offensive activity shall be carried on upon any Dwelling Unit or lot, nor shall anything be done thereon which is or may become an annoyance or nuisance to the neighborhood.

**Section 11. Antenna.** No television, radio, electronic or other type antenna or satellite dish may be erected on the Committed Property or attached to the exterior of any Dwelling Unit thereon. Notwithstanding the above, a satellite dish not exceeding eighteen inches (18") in width shall be permitted on the property with the prior written approval of the Architectural Review Commission as to location and color.

**Section 12. Exterior Appearances and Maintenance of Landscaping.** The paint, coating, stain, roof color and material and other exterior finishing colors on all Dwelling Units may be maintained as that originally installed, without prior approval of the Architectural Review Committee. Prior approval by the Architectural Review Committee shall be necessary before any such exterior finish color is changed. Furthermore, prior approval shall be required if an Owner wishes to paint, varnish, stain or make any application to exterior trellises or wood treatment, if any. The landscaping, including, without limitation, the trees, shrubs, lawns, flower beds, walkways and ground elevations shall be maintained as originally installed by Declarant, unless the prior approval for any substantial change is obtained from the Architectural Review Committee. Neither aluminum foil, paper, nor anything which the

FOR GOOD AND VALUABLE CONSIDERATION, the receipt whereof is hereby acknowledged, The Sanctuary at Palm Coast Homeowners' Association, Inc., a Florida corporation not for profit, hereby agrees to accept all of the benefits and all of the duties, responsibilities, obligations and burdens imposed upon it by the provisions of this Declaration and Exhibits attached hereto.

IN WITNESS WHEREOF, the above described corporation, a Florida corporation not for profit, has caused these presents to be signed in its name by its President and its corporate seal affixed, attested by its Secretary, this 10<sup>th</sup> day of JUNE 1999.

Signed, Sealed and Delivered

THE SANCTUARY AT PALM COAST  
HOMEOWNERS' ASSOCIATION, INC.

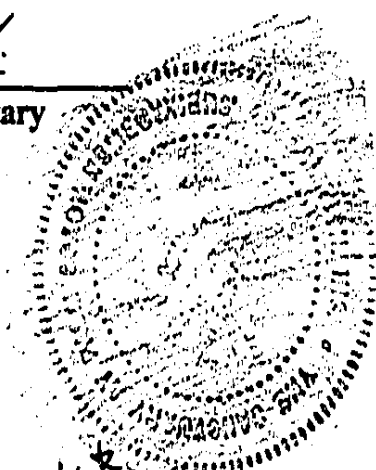
Signed in the presence of:

Arlene Connelly  
Laura J. Wilson

By: [Signature]  
William Harkins, President

Attest [Signature]  
Gregory Robinson, Secretary

(Corporate Seal)



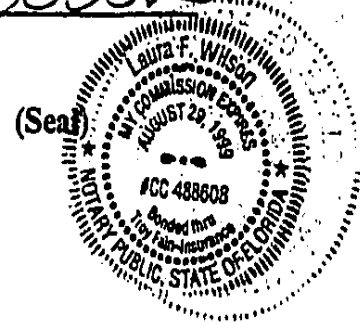
STATE OF FLORIDA  
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me on the 10<sup>th</sup> day of June, 1999, by William Harkins and Gregory Robinson, as President and Secretary, respectively, of THE SANCTUARY AT PALM COAST HOMEOWNERS' ASSOCIATION, INC., a Florida corporation not for profit, on behalf of and as the act and deed of the corporation. They are personally known to me and did not take an oath.

[Signature]  
Notary Public

My Commission Expires:

F:\RB18ay\C&R\5/6/99.5





Architectural Review Committee deems objectionable may be placed on windows or glass doors. All items such as lawn furniture, grills, outdoor play structures or any similar item used on any lot or Dwelling Unit must be stored within the Dwelling Unit (including any porch attached to the Dwelling Unit) when not in use or, if left outside of a Dwelling Unit in a location where the item is visible from any other Dwelling Unit, roadway or portion of Common Area for a period of more than twenty four (24) hours must be approved by the Committee.

All Dwelling Units and lots shall be kept in a clean and sanitary manner and no rubbish, refuse or garbage shall be allowed to accumulate or any fire hazard allowed to exist.

**Section 13. Existing Trees.** Neither the Association nor an Owner or other person, without the prior written consent of the Architectural Review Committee, shall remove any live tree with a trunk of eight inches or more in diameter (as measured one (1) foot from ground level) from any portion of the Committed Property. If said trees are removed without the prior consent, the Owner or the Association, as appropriate, may be required by the Committee to replace same with trees of comparable size.

**Section 14. Landscaping Plan.**

- (a) Concurrent with the submission of plans and specifications to the Architectural Review Committee in accordance with Section 3 of Article X above, the Owner shall submit to the Architectural Review Committee for its review and approval a landscaping plan designed by a registered Landscape Architect.
- (b) Minimum landscaping requirements shall be provided by the Architectural Review Committee upon request.
- (c) Existing trees intended to be removed in accordance with Section 13 above must be shown on the landscape plan.
- (d) All lots shall be fully sodded upon completion of the Dwelling Unit.

**Section 15. Grades and Elevations.** To preserve and maintain proper drainage in the Sanctuary, no changes in grades or elevations of any portion of a Dwelling Unit or lot (including the swale areas) or Common Areas shall be made without the prior written approval of the Architectural Review Committee. Final floor elevations and all other applicable grades must be shown on the site plan and approved by the Committee prior to construction.

**Section 16. Drainage System. Swales.** The Association shall maintain any drainage system within the Common Areas or the Committed Property. Owners must maintain the swales located on an Owner's Lot, unless the maintenance of these swales is assigned to the Association by a Supplemental Declaration. Standards for the location, width, depth and invert grades of culverts shall be initially established by the Declarant and the Declarant shall provide the Association with a set of "as-built" drawings for the drainage system within the

Committed Property which set forth the location of invert grade, width and depth of the drainage system, including swales. Nothing shall be constructed, maintained, altered or permitted to exist on any portion of the Committed Property if it obstructs or could obstruct the flow of surface drainage or any other function of the drainage system.

Section 17. Fertilizers, Pesticides. Only biodegradable fertilizers and EPA/DER approved pesticides and fungicides may be used anywhere in the Sanctuary. No person shall use any EDB or dioxin within the Sanctuary.

Section 18. Commercial Vehicles, Trucks, Trailers, Campers and Boats. No trucks or commercial vehicles, campers, recreational vehicles, mobile homes, motor-homes, boats, house trailers, boat trailers or trailers of every other description shall be permitted to be parked or to be stored overnight at any place on any Common Area or any lot in the Committed Property; except only during the periods of approved construction of a Dwelling Unit, or if parked in an area designated by Declarant for such purpose or parked in a fully enclosed garage with the garage door fully closed. This prohibition of parking shall not apply to temporary parking of trucks and commercial vehicles, such as for pick-up, delivery and other commercial services. Private passenger vehicles may be parked on the paved portion of a lot. For the purposes of this section, a private passenger vehicle shall be deemed to mean an automobile, pick up truck or van of one ton or less capacity which does not display any lettering or sign relating to a commercial activity or business and which is operable and currently licensed for operation on the public roads. No person shall park any vehicle so as to obstruct any resident's use of ingress or egress to any lot or Common Area or park any vehicle on any unpaved portion of any lot or Common Area, except as expressly permitted by Declarant.

Section 19. Sales and Rentals. No Dwelling Unit may be rented, leased or sublet for a term of less than one hundred eighty (180) days nor more than once in any one (1) year period.

Section 20. Walls/Fences. Except as originally installed by Developer, no fence, wall, gate, hedge, or other structure shall be erected or maintained on any lot unless approved in writing by the Architectural Review Committee.

Section 21. Garbage and Trash Disposal. No garbage, refuse, trash, rubbish, grass or shrubbery clippings shall be deposited on any place on any Common Area or any lot in the Committed property except in areas designated by the Association for such purpose. All equipment for storage or disposal of such material shall be kept in a clean and sanitary condition and shall be kept hidden from view by plantings or decorative fencing.

Section 22. Outdoor Drying and Laundry. No clothing, laundry or wash shall be aired or dried on any portion of any Common Area or the front yard or side yards of any lot. Clotheslines are permitted in the rear yards of Dwelling Units so long as the clothesline is screened from view from other Dwelling Units, roadways and Common Areas. The Association may adopt rules or regulations pertaining to the screening necessary under this

section. No clothing, laundry, garments, rugs, etc., shall be hung from windows or doorways of Dwelling Units.

**Section 23. Swimming Pools and Screen Enclosures.** All screen enclosures, pools, deck areas, patios, hot tubs, jacuzzis, and sun decks must be approved in writing by the Architectural Review Committee. Above ground pools are not permitted.

**Section 24. Lawful Conduct.** No immoral, improper, offensive or unlawful use shall be made of any Dwelling Unit or other improvements. All valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction shall be strictly observed.

**Section 25. Risks.** No Owner shall permit or suffer anything to be done or kept in his Dwelling Unit or on his lot which will increase the rate of insurance as to other Owners or as to their Dwelling Units, lots or to the Association as to the Common Areas.

**Section 26. Parking Spaces.** Each Owner shall have the exclusive right to use the paved portions of the Owner's lot for parking and shall not park on any unpaved areas.

**Section 27. Basketball Boards.** Basketball nets and backboards must be approved by the Committee prior to installation.

**Section 28. Skateboard Ramps.** Skateboard ramps are prohibited on any lot or Common Area.

**Section 29. Flagpoles.** All flagpole structures and their locations must be approved by the Committee prior to construction and/or installation of same.

**Section 30. Decorative Items.** The use of decorative items, including, but not limited to, statues, gates, rocks, planters, bird baths and other ornamental accessories must be submitted to the Architectural Review Committee for review and approval prior to use, installation or construction.

**Section 31. Mailboxes.** All mailboxes shall be of the standardized type originally installed by Declarant or as thereafter designated by the Architectural Review Committee as to style, location, material, color, height and type of post mounting.

**Section 32. Lighting.** All exterior lighting, including, but not limited to, walkway, driveway or accent, except as originally installed by the Declarant must be approved by the Architectural Review Committee prior to construction or installation.

**Section 33. Businesses.** No trade, business, professional office, or any other type of commercial activity shall be conducted on any portion of the Committed Property or in any Dwelling Unit; however, notwithstanding this restriction, Declarant and its assigns shall not be prohibited from operating sales models and/or a sales and leasing office on any portion of the Committed Property.

**Section 34. Wells, Mining, Drilling and Excavation.** No wells, mining, drilling or excavation of any type, except for such excavation as may be necessary for construction of Dwelling Units and Common Areas shall be permitted on any portion of the Committed Property. No Owner of any Dwelling Unit or lot shall draw water from any water body on or adjacent to the Committed Property for irrigation or any other purpose.

**Section 35. Air Conditioners.** All air conditioning units or compressors shall be shielded from public view by plantings or decorative fencing.

**Section 36. Water Conserving Fixtures.** Only water conserving fixtures designed to meet county or state standards shall be installed in any Dwelling Unit.

**Section 37. Set Backs.** For all lots, no part of any Dwelling Unit, except as otherwise allowed by the Architectural Review Committee, shall be located nearer than thirty (30)-feet to the front lot line; ten (10) feet to the side lot line and twenty (20) feet from the rear lot line.

**Section 38. Minimum Living Area.** The minimum living area of a Dwelling Unit, exclusive of open porches, screened-in-patios and garages shall not be less than two thousand five hundred (2,500) square feet. The method of determining the square foot area of proposed buildings and structures or additions and enlargements thereto shall be to multiply the outside horizontal dimensions of the building or structure of each floor level. Garages, roofed-screen porches and the like shall not be taken into account in calculating the minimum square foot areas as required by this Declaration.

**Section 39. Minimum Roof Requirements.** The roofs on all Dwelling Units shall be a minimum pitch of 6/12 and shall meet the criteria as outlined in the Sanctuary's Design and Development Guidelines.

**Section 40. Garages.** All Dwelling Units shall have attached thereto an enclosed garage with the capability of storing two (2) full size passenger vehicles.

**Section 41. Seawalls and Bulkheads - Preservation and Protection of Shores and Channels.**

(a) The Owner of any lot which abuts the Intracoastal Waterway shall be limited to the following options along such lot line:

- (1) riprap
- (2) coquina or
- (3) left in the lot's natural state.

(b) The Owner of any lot which abuts the Custer Waterway, Cochise Waterway, Cimmaron Waterway or Intracoastal Waterway shall:

- (1) at Owner's expense, maintain the seawall or bulkhead in a condition which is acceptable to the Architectural Review Committee;
- (2) not excavate, dredge, modify or alter any land grades, land elevations, earth work, shore stabilizer or treatment, riprap, sod, planting, bank protection and/or soil cover, nor permit any such act;
- (3) at Owner's expense, maintain in good condition, order and repair, in accordance with such standards as the Architectural Review Committee may establish, all earth works, sod, planting, bank protection, lawn or other soil cover;
- (4) not dump, or place, nor permit to be dumped or placed, any earth, stone or other fill material or any solid material or waste of any kind in the Custer Waterway or Intracoastal Waterway, nor shall the Owner remove, nor permit to be removed from the Custer Waterway or Intracoastal Waterway any earth, sand or other fill material;
- (5) not damage, destroy, break tunnel under, tamper with, alter, modify or change in any manner or degree any bulkhead, deadman anchor, bulkhead cap, riprap or other shore treatment or installation;
- (6) not attach or affix, or moor or dock, nor permit to be attached or affixed, or moored or docked to any bulkhead or bulkhead cap any cleat, pole, bitt or other device attachment of any kind without prior written consent of the Architectural Review Committee.
- (7) All docks which abut a lot shall, at the lot Owner's expense, be maintained by such Owner in a condition acceptable to the Architectural Review Committee.

**Section 42. Maximum Height Requirements - No structure on any lot shall exceed thirty five (35) feet in height from the crown of the roadway abutting the lot.**

**Section 43. Docks and Piers - Permits and Approvals - As the construction of docks, piers, moorings, pilings, mooring buoys and similar structures are subject to permitting and approvals from governmental and non governmental entities, the Declarant makes no warranties or representations as to Owner's ability to obtain such permits or approvals.**

**Section 44. Violations. In the event of a violation of this Declaration or any rule promulgated by the Board of Directors of the Association, the Association may, as an**

additional remedy, provide written notice of the violation to the Owner of record, and if said violation shall continue for a period of seven (7) days from the date of the written notice, the Owner may be assessed an amount up to \$5.00 per day, per violation. This assessment shall be considered in the same manner as hereinbefore provided for regular assessments and those sections providing for the recording of the assessment lien, enforcement and collection shall also apply.

**Section 45. Declarant Rights.** Notwithstanding any other provision in this Declaration, Declarant is irrevocably empowered to sell, lease or rent Dwelling Units on any terms to any purchasers or lessees for as long as it owns any Dwelling Unit or lot. This section is intended to provide Declarant with the broadest authority and power to transact and implement its business, and such activities shall be free and clear of any restrictions contained in this Declaration which would impede such activities. Declarant shall have the right to transact any business necessary to consummate sales and leases of said Dwelling Units or lots, temporary uses for model homes, parking and/or sales offices, maintain signs, have employees in the office, use the Common Areas and show Dwelling Units and Common Areas. Sales office signs and all items pertaining to sales shall not be considered property of the Association and shall remain the property of Declarant.

## **ARTICLE XI**

### **Additional Powers Reserved to Declarant**

**Section 1. Declarant Related Documents.** So long as Declarant shall own any Dwelling Units or lots or any portion of the Committed Property, no Declarant related amendment shall be made to the Declaration, to any Supplemental Declaration, to the Articles, Bylaws, Rules and Regulations, or any other similar Association document, nor shall any such Declarant related amendments or documents be executed, adopted or promulgated by the Association or the Board of Directors unless such Declarant related amendment or document shall be specifically approved in writing by Declarant in advance of such execution, adoption, promulgation and recording.

**Section 2. Definitions.** For the purposes of Section 1 of this Article, an amendment or document which does any of the following shall be considered to be a Declarant related amendment:

- (a) Discriminates or tends to discriminate against Declarant as an Owner or otherwise;
- (b) Directly or indirectly by its provisions or in practical application relates to Declarant in a manner different from the manner in which it relates to other Owners;
- (c) Modifies the definitions provided for by Article I of this Declaration in a manner which alters Declarant's rights or status;

- (d) Modifies or repeals any provision of Article II of this Declaration;
- (e) Alters the character and rights of membership as provided for by Article III of this Declaration or affects or modifies in any manner whatsoever the rights of Declarant as a Member of the Association;
- (f) Alters any previously recorded or written agreement with any public or quasi-public agency, utility company, political subdivision, public authority or other similar agency or body, respecting zoning, streets, roads, drives, easements or facilities;
- (g) Denies the right of Declarant to convey the Common Areas to the Association;
- (h) Denies the right of Declarant to record a Supplemental Declaration with respect to portions of the Sanctuary or adding properties subject to this Declaration or otherwise making provisions in accordance with the powers granted to Declarant in this Declaration;
- (i) Modifies the basis or manner of Association assessments as applicable to Declarant or any Dwelling Unit or lot owned by Declarant as provided for by Articles VI and VII;
- (j) Modifies the provisions of Article X (architectural control) as applicable to Declarant or any Dwelling Unit or lot owned by Declarant;
- (k) Alters the provisions of any Supplemental Declaration; or
- (l) Denies the right to Declarant, its contractors and subcontractors, to maintain temporary construction trailers, sheds or other buildings upon the Committed Property; or
- (m) Alters or repeals any of Declarant's rights or any provision applicable to Declarant's rights as set forth in any provision of this Declaration or of any Supplemental Declaration or other document applicable to Declarant.

The decision to approve or failure to approve any Declarant related document or Amendment by Declarant in accordance with Section 1 of this Article shall be in the sole and absolute discretion of Declarant and Declarant shall not be liable to the Association, its Members or any party as a result of granting or refusing to grant such approval.

**Section 3. Declarant Lands.** So long as Declarant continues to own a Dwelling Unit or lot in the Sanctuary, no action may be taken by the Board or the Association applicable to the Declarant unless such action shall be approved in writing by Declarant; or, unless the need therefor shall be waived by the Declarant in writing.

## **ARTICLE XII**

### **General Provisions**

**Section 1. Beneficiaries of Easements, Rights and Privileges.** The easements, licenses, rights and privileges established, created and granted by this Declaration shall be for the benefit of and restricted solely to the Association, Declarant, its assigns, the Owners and to any other party to whom the Declarant or Association is entitled to grant such easements, licenses, rights and privileges under this Declaration; and any Owner may also grant the benefit of such easement, license, right or privilege to his tenants and guests and their immediate families for the duration of their tenancies or visits, subject, in the case of the Common Areas, to the Rules and Regulations of the Association; but, the same is not intended nor shall it be construed as creating any rights in or for the benefit of the general public.

**Section 2. Duration.** The covenants and restrictions of this Declaration shall run with and bind the land that has been made a part of the Association and shall inure to the benefit of and be enforceable by Declarant, the Association or the Owner of any land subject to this Declaration and their respective legal representatives, heirs, successors and assigns for a term of ninety-nine (99) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the then Owners of two-thirds of the Dwelling Units or lots and all Institutional Mortgagees of Dwelling Units has been recorded, agreeing to change said covenants and restrictions in whole or in part. Provided, however, that no such agreement to change shall be effective unless made and recorded one (1) year in advance of the effective date of such change and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

**Section 3. Notice.** Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

**Section 4. Enforcement.** Enforcement of these covenants and restrictions shall be by Declarant, its assigns, the Association or any Owner by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by Declarant, the Association, any Owner or other party to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Those covenants pertaining to matters requiring



approval of the Architectural Review Committee may also be enforced by the Committee. Any provision of this Declaration relating to the maintenance, operation or repair of the surface water or stormwater management system may be enforced by the St. Johns River Water Management District. The prevailing party in any proceeding at law or in equity provided for in this Section shall be entitled to recover in said suit the cost of the action, including reasonable attorneys' fees as fixed by the court, including attorneys' fees in connection with appeal of any action.

**Section 5. Disposition of Assets Upon Dissolution of Association.** Upon dissolution of the Association, its real and personal assets, including the Common Areas, shall be dedicated to an appropriate public agency or utility to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. In the case of any surface water or stormwater management system which is maintained by the Association, the responsibility for the operation and maintenance of the surface water or stormwater management system must be transferred to and accepted by an entity which would comply with § 40C-42.027, Florida Administrative Code and be approved by the St. Johns River Water Management District prior to any termination, dissolution or liquidation of the Association. If such dedication is refused acceptance, which refusal in the case of the County shall be by formal Resolution of the Board of County Commissioners, such assets shall be granted, conveyed and assigned to any corporation not for profit, association, trust or other organization to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. No such disposition of the Association properties shall be effective to divest or diminish any right or title to any Member vested in him under the licenses, covenants and easements of this Declaration, or under any subsequently recorded covenants and deeds applicable to The Sanctuary, unless made in accordance with the provisions of this Declaration or said covenants restrictions and deeds.

**Section 6. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order or otherwise shall in no way affect any other provisions which shall remain in full force and effect.

**Section 7. Amendment.** Excepting Supplemental Declarations and in addition to any other manner herein provided for the amendment of this Declaration, the covenants, restrictions, easements, charges, and liens of this Declaration may be amended, changed, added to or deleted at any time and from time to time upon the execution and recordation of any instrument executed by: (a) Declarant, for so long as it holds title to any land affected by this Declaration and said amendment by Declarant shall not require the consent of any mortgagees, Owners or partial owners of Dwelling Units nor of the Association, either now or in the future; or, alternatively, (b) by Owners holding not less than two-thirds vote of the membership in the Association or by an instrument signed by the President and Secretary of the Association attesting that such instrument was approved by Members entitled to vote two-thirds of the votes of the Association at a meeting of the Members called for such purpose; provided, that so long as Declarant is the owner of any land affected by this Declaration, Declarant's consent must be obtained; and (c) by all Institutional Mortgagees of Dwelling Units affected by this Declaration, provided that so long as Declarant is the owner of any land

affected by this Declaration, Declarant's written consent must be obtained. Any amendment must be properly recorded in the Public Records of the County to be effective.

Any amendment to this Declaration which alters any surface water or stormwater management system, beyond the maintenance in its original condition, including the water management portions of the Common Areas, must have the prior written approval of the St. Johns River Water Management District.

Section 8. Administration. The administration of the Association shall be in accordance with the provisions of this Declaration and the Articles of Incorporation and Bylaws which are made a part of this Declaration and attached hereto as Exhibits "C" and "D" respectively.

Section 9. Conflict. In case of any conflict between the Articles and Bylaws, the Articles shall control. In case of any conflict between the Articles, Bylaws and this Declaration, this Declaration shall control.

Section 10. Effective Date. This Declaration shall become effective upon its recordation in the Official Records Book of the County.

Section 11. Community Benefit Program. In addition to any other assessment provided for herein, the Owner of a lot or Dwelling Unit in The Sanctuary is hereby made liable to the Palm Coast Community Service Corporation (PCCSC) for a pro rata share of the actual costs of the operation expenses of a Community Benefit Program for facilities and services in Palm Coast or to further the environmental and aesthetic principals. The implementation of the program and the extent thereof shall be within the sole discretion of the PCCSC. The funds collected may be used to cover the costs (1) for the maintenance, expansion or creation of facilities, amenities, programs or services of community nature or (2) to further the environmental and aesthetic principals. Each Owner's share shall be computed by multiplying the current Assessment Rate by the total number of Assessment Units owned by that Owner in The Sanctuary. An Assessment Unit for The Sanctuary shall be equal to one lot or Dwelling Unit. The Assessment Rate shall be computed by dividing the total number of Assessment Units in the Palm Coast community assessable by the PCCSC into the total estimated operating budget for the current year and shall be subject to adjustment by the Board of Directors of the PCCSC on an annual basis. The assessment shall be billed by the PCCSC annually, in advance, to the Owner of record of the lot or Dwelling Unit and shall be payable on January 1. Every Owner in The Sanctuary subject to the Community Benefit Program Assessment shall be a member of the PCCSC and entitled to one vote for each Assessment Unit owned by such Owner on any matters upon which members of the PCCSC are entitled to vote. Each Owner hereby agrees that the PCCSC shall have a lien upon such Owner's lot or Dwelling Unit for the monies due until such amount is paid to the same extent as the lien for The Sanctuary assessments provided for in Article VII, Section 1 of this Declaration. In the event that monies due remain unpaid for a period of thirty (30) days, the PCCSC shall have all the rights and privileges accorded to the Board with respect to the collection thereof as provided in Article VII, Section 6, above.

Section 12. Approval of Association Lawsuits by Owners. Notwithstanding anything contained herein to the contrary, the Association shall be required to obtain the approval of three-fourths (3/4) of all Owners (at a duly called meeting of the Owners at which a quorum is present) prior to the payment of legal or other fees to persons or entities engaged by the Association for the purpose of suing, or making, preparing or investigating any lawsuit, or commencing any lawsuit other than for the following purposes:

- (a) the collection of Assessments;
- (b) the collection of other charges which Owners are obligated to pay pursuant to The Sanctuary Documents;
- (c) the enforcement of the use and occupancy restrictions contained in the The Sanctuary documents, including, but not limited to, those against tenants; or
- (d) in an emergency where waiting to obtain the approval of the Owners creates a substantial risk of irreparable injury to The Sanctuary or any portion thereof.

IN WITNESS WHEREOF, this document has been signed by its proper officers this 10<sup>th</sup> day of JUNE, 1999.

BAY INVESTMENTS OF PALM COAST,  
L.C.

By: [Signature]  
William F. Harkins, Manager

Signed in the presence of:

[Signature]  
[Signature]

(Corporate Seal)

STATE OF Florida  
COUNTY OF Flagler

The foregoing instrument was acknowledged before me on the 10<sup>th</sup> day of June, 1999, by William F. Harkins, Manager of Bay Investments of Palm Coast, L.C., on behalf of and as the act and deed of the corporation. William F. Harkins is personally known to me and did not take an oath.

[Signature]  
Notary Public

My Commission Expires:

(Seal)

