



## **OWNERS ASSOCIATION**

### *TABLE OF CONTENTS*

1. Fifth Amendment to The Cove Declaration
2. Fourth Amendment to The Cove Declaration
3. Third Amendment to The Cove Declaration
4. Second Amendment to The Cove Declaration
5. First Amendment and Assignment of Declarant
6. Declaration
7. Articles of Incorporation
8. By-Laws
9. Rules and Regulations
10. Other Documents





**FIFTH AMENDMENT TO THE COVE DECLARATION**

FILE NUM 20060587803 OR BOOK PAGE 208724508 DATE: 10/17/2006 12:47:45 Pgs 1508 - 1511: (4pgs)  
Sharon R. Beck, CLERK & COMPTROLLER

THIS FIFTH AMENDMENT TO THE COVE DECLARATION (this "Amendment") is made as of October 10<sup>th</sup>, 2006, by GAETA LIMITED PARTNERSHIP #2, a Florida limited partnership ("Declarant") and joined by THE COVE OWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation (the "Association").

**Background**

A. The Declarant together with others imposed The Cove Declaration, dated December 12, 2001, and recorded January 3, 2002 in Official Records Book 13271, Page 1332, of the Public Records of Palm Beach County, Florida (the "Original Declaration"), as first amended by The Cove Declaration First Amendment and Assignment of Declarant, dated March 5, 2003 and recorded March 18, 2003, in Official Records Book 14937, Page 1560, of the Public Records of Palm Beach County, Florida (the "First Amendment"), as second amended by Second Amendment to The Cove Declaration, dated April 23, 2003 and recorded April 24, 2003, in Official Records Book 15109, Page 1591, of the Public Records of Palm Beach County, Florida (the "Second Amendment"), as third amended by Third Amendment to The Cove Declaration, dated November 20, 2003 and recorded December 3, 2003, in Official Records Book 16261, Page 1370, of the Public Records of Palm Beach County, Florida (the "Third Amendment"), and as fourth amended by Fourth Amendment to The Cove Declaration, dated December 13, 2005 and recorded December 16, 2005, in Official Records Book 19677, Page 0434, of the Public Records of Palm Beach County, Florida (the "Fourth Amendment"). The Original Declaration and the First, Second, Third and Fourth Amendments are hereinafter collectively referred as the "Declaration".

B. Pursuant to Paragraph 30, Section 30.2 of the Declaration, since the "Turnover Date" (as defined in the Declaration) has not yet occurred, the Declarant has the right to amend the Declaration as it deems appropriate, and therefore, the Declarant wishes to amend the Declaration as described below.

**Terms of Amendment**

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. Definitions. All terms defined in the Declaration have the same meaning herein except as amended in this Amendment. The purpose of the following maintenance changes is to minimize the number of vendors for security and safety reasons.
2. Amendment to Paragraph 5.26 Maintenance.

5.26.6 is hereby added:

“There shall be one grinder pump service company that services the sewage lift stations located on each Lot. Pursuant to the Development Agreement with Seacoast Utility Authority, each Lot owner must have a contract with a maintenance company to service the grinder pumps. The service company shall perform the contracted services one weekday per month. If special services are needed for a specific Lot, the Lot owner shall be responsible for those extra expenses.”

5.26.7 is hereby added:

“There shall be one Landscaping Company hired solely by The Cove Owners’ Association Inc., that shall be responsible for all the common areas and all the interior Lots. The Landscaping Company shall cut, edge, and maintain in first class a good, safe, clean, neat and attractive condition. The Landscaping Company shall perform the contracted services one weekday per week. There shall be no other outside Landscaping Company and the individual Lot Owners may be permitted to hire gardeners for non-motorized work that will be exempt from this rule and schedule but the Lot owner shall still be responsible for the monthly landscaping services fee. In addition, each Lot Owner shall be charged a 1/20 share for landscaping services. If special services are needed, such as the installation of a new large oak tree or new hedges for a specific Lot, the Lot owner shall be solely responsible for those extra charges.”

5.26.8 is hereby added:

“Any shrubs or bushes fronting the sidewalk of each Lot Owner shall be trimmed to a maximum height of four (4) feet and trimmed away from the sidewalk. The Landscaping Company hired by The Cove Owners’ Association, Inc. shall be instructed and required to trim all shrubs and bushes fronting the street on each Lot to a maximum height of four (4) feet and shall trim away from the sidewalk. Each Lot Owner shall be responsible for maintaining the sidewalk on their property by keeping it clean and pressure cleaning whenever necessary.”

5.26.9 is hereby added:

“The Cove Owner’s Association, Inc. shall hire on an annual basis one company to install and remove the holiday lights and/or decorations at both entrances to The Cove. Each Lot owner shall bear a 1/20 share of the annual cost of the holiday lighting and decorations.”

3. Amendment to Paragraph 5.35 Pools.

5.35.1 is hereby added:

“There shall be one pool company hired solely by The Cove Owners’ Association, Inc. that shall be responsible for all the pools to insure that they are adequately maintained and chlorinated. There shall be no other outside pool services and the pool company shall perform the contracted services one weekday per week.”

4. 5.53 Signs.

"For Sale" or "For Lease" signs shall be strictly prohibited. It is understood that GAETA Realty & Investments shall maintain its existing signs until the completion and sale of the remaining residences currently under construction."

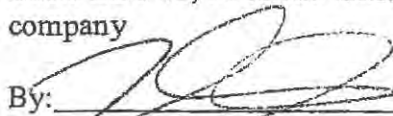
5. No Other Amendments. Except as set forth herein, the Declaration and By-Laws are not amended in any other respect and shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be duly executed on the day and year first above written.

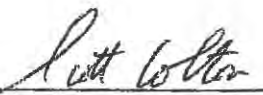
Witnessed by:

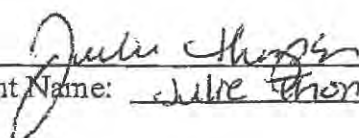
**GAETA LIMITED PARTNERSHIP #2,**  
a Florida limited partnership

By: Gaeta LLC #2, a Florida limited liability company

By:   
Name: Neil J. Gaeta  
Title: Managing Member

(Corporate Seal)

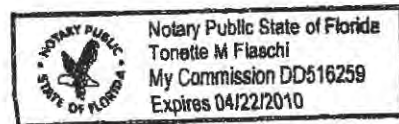
  
Print Name: SCOTT COLTON

  
Print Name: Julie Thompson

STATE OF FLORIDA                    )  
  ) ss:  
COUNTY OF PALM BEACH         )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of October, 2006, by Neil J. Gaeta as Managing Member of Gaeta LLC #2, a Florida limited liability company, general partner on behalf of **GAETA LIMITED PARTNERSHIP #2**, a Florida limited partnership. He  is personally known to me or  has produced \_\_\_\_\_ as identification and did not take an oath.

Name: Tonette M. Diacari  
Notary Public, State of Florida  
My commission expires: 04/22/2010



JOINDER OF THE COVE OWNERS' ASSOCIATION, INC.

The undersigned Association hereby joins in the foregoing Amendment.

WITNESSES:

Sign: *Scott Colton*  
Print Name: SCOTT COLTON

Sign: *Julie Thompson*  
Print Name: Julie Thompson

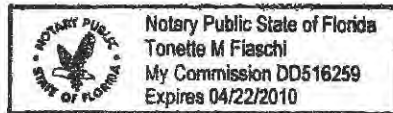
THE COVE OWNERS' ASSOCIATION,  
INC., a Florida not-for-profit corporation

By: *[Signature]*  
Name: Neil J. Gaeta  
Title : President

STATE OF FLORIDA )  
 ) ss:  
COUNTY OF PALM BEACH )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of October, 2006, by Neil J. Gaeta as President of THE COVE OWNERS' ASSOCIATION, a Florida not-for-profit corporation. He  is personally known to me or  has produced as identification and did not take an oath.

Name: *Tonette M. Fiaschi*  
Notary Public, State of Florida  
My commission expires: 04/22/2010





CFN 20050768550  
 OR BK 19677 PG 0434  
 RECORDED 12/16/2005 11:41:29  
 Palm Beach County, Florida  
 Sharon R. Book, CLERK & COMPTROLLER  
 Pgs 0434 - 437; (4pgs)

**FOURTH AMENDMENT TO THE COVE DECLARATION**

THIS FOURTH AMENDMENT TO THE COVE DECLARATION (this "Amendment") is made as of December 15<sup>th</sup>, 2005, by GAETA LIMITED PARTNERSHIP #2, a Florida limited partnership ("Declarant") and joined by THE COVE OWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation (the "Association").

**Background**

A. The Declarant together with others imposed The Cove Declaration, dated December 12, 2001, and recorded January 3, 2002 in Official Records Book 13271, Page 1332, of the Public Records of Palm Beach County, Florida (the "Original Declaration"), as first amended by The Cove Declaration First Amendment and Assignment of Declarant, dated March 5, 2003 and recorded March 18, 2003, in Official Records Book 14937, Page 1560, of the Public Records of Palm Beach County, Florida (the "First Amendment"), as second amended by Second Amendment to The Cove Declaration, dated April 23, 2003 and recorded April 24, 2003, in Official Records Book 15109, Page 1591, of the Public Records of Palm Beach County, Florida (the "Second Amendment"), and as third amended by Third Amendment to The Cove Declaration, dated November 20, 2003 and recorded December 3, 2003, in Official Records Book 16261, Page 1370, of the Public Records of Palm Beach County, Florida (the "Third Amendment"). The Original Declaration and the First, Second, and Third Amendments are hereinafter collectively referred as the "Declaration".

B. Pursuant to Paragraph 30, Section 30.2 of the Declaration, since the "Turnover Date" (as defined in the Declaration) has not yet occurred, the Declarant has the right to amend the Declaration as it deems appropriate, and therefore, the Declarant wishes to amend the Declaration as described below.

**Terms of Amendment**

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. **Definitions.** All terms defined in the Declaration have the same meaning herein except as amended in this Amendment.
2. **Amendment to Paragraph 18.5.**

18.5.1 is hereby added:

"Prior to the submission of any application to the ARC, each Owner must be current with The Cove Owners' Association and there shall be no outstanding assessment, general assessment, lien or any other cost or indebtedness to The Cove Owners' Association attributable to the Owner's property. The Association further retains the right to halt construction, if necessary."



3. Amendment to Paragraph 16.14.

The following sentence is added to the conclusion of Paragraph 16.14:

"The sum of \$1,500.00 shall be deemed a reasonable administration collection cost and shall be added to the amount of any Claim of Lien filed on behalf of The Cove Owners' Association in addition to all attorney fees, costs, and any other actual expenses incurred by the Association."

4. No Other Amendments. Except as set forth herein, the Declaration and By-Laws are not amended in any other respect and shall remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGES]

This is not a certified copy









**THIRD AMENDMENT TO THE COVE DECLARATION**

THIS THIRD AMENDMENT TO THE COVE DECLARATION (this "Amendment") is made as of November 20, 2003, by GAETA LIMITED PARTNERSHIP #2, a Florida limited partnership ("Declarant") and joined by THE COVE OWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation (the "Association").

**Background**

A. The Declarant together with others imposed The Cove Declaration, dated December 12, 2001, and recorded January 3, 2002 in Official Records Book 13271, Page 1332, of the Public Records of Palm Beach County, Florida (the "Original Declaration"), as first amended by The Cove Declaration First Amendment and Assignment of Declarant, dated March 5, 2003 and recorded March 18, 2003, in Official Records Book 14937, Page 1560, of the Public Records of Palm Beach County, Florida (the "First Amendment"), as second amended by Second Amendment to The Cove Declaration, dated April 23, 2003 and recorded April 24, 2003, in Official Records Book 15109, Page 1591, of the Public Records of Palm Beach County, Florida (the "Second Amendment"). The Original Declaration and the First and Second Amendments are hereinafter collectively referred as the "Declaration".

B. Pursuant to Paragraph 30, Section 30.2 of the Declaration, since the "Turnover Date" (as defined in the Declaration) has not yet occurred, the Declarant has the right to amend the Declaration as it deems appropriate, and therefore, the Declarant wishes to amend the Declaration as described below.

20<sup>10</sup>

**Terms of Amendment**

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. Definitions. All terms defined in the Declaration have the same meaning herein except as amended in this Amendment.
2. Amendment to Paragraph 5, Section 5.3.

The first sentence of Section 5.3 is hereby amended by adding:

"no more than one (1) boat and two (2) personal watercraft or two (2) personal watercraft shall be permitted to be docked behind each home."

3. Amendment to Paragraph 5, Section 5.32.

The following sentence is added to the conclusion of Section 5.32:

“Provided there are already parked in the garage of the home the maximum number of automobiles for which the garage was designed, additional automobiles, which shall not be a commercial vehicle, which shall have no commercial advertising, decal, or signage, and shall not be a truck, may be allowed to remain overnight in the driveway of the home.”

4. No Other Amendments. Except as set forth herein, the Declaration and By-Laws are not amended in any other respect and shall remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the undersigned have caused this Amendment to be duly executed on the day and year first above written.

Witnessed by:

GAETA LIMITED PARTNERSHIP #2,  
a Florida limited partnership

By: Gaeta LLC #2, a Florida limited liability  
company

*Scott Colton*  
Print Name: SCOTT COLTON

*[Signature]*  
Name: Neil J. Gaeta  
Title: Managing Member

*Cathy J. Era*  
Print Name: Cathy J. Era

(Corporate Seal)

STATE OF FLORIDA            )  
  ) ss:  
COUNTY OF PALM BEACH    )

The foregoing instrument was acknowledged before me this 20th day of NOVEMBER 2003, by Neil J. Gaeta as Managing Member of Gaeta LLC #2, a Florida limited liability company, general partner on behalf of **GAETA LIMITED PARTNERSHIP #2**, a Florida limited partnership. He  is personally known to me or  has produced \_\_\_\_\_ as identification and did not take an oath.

Name: *Tonette M. Fiaschi*  
Notary Public, State of Florida  
My commission expires: APRIL 22, 2006



Tonette M Fiaschi  
My Commission DD111033  
Expires April 22, 2006

**JOINER OF THE COVE OWNERS' ASSOCIATION, INC.**

The undersigned Association hereby joins in the foregoing Amendment.

WITNESSES:

Sign: Scott Colton  
Print Name: SCOTT COLTON

Sign: Cathy J. Esra  
Print Name: Cathy J. Esra


**THE COVE OWNERS' ASSOCIATION, INC.**, a Florida not-for-profit corporation

By: Neil J. Gaeta  
Name: Neil J. Gaeta  
Title: President

STATE OF FLORIDA                    )  
  ) ss:  
COUNTY OF PALM BEACH         )

The foregoing instrument was acknowledged before me this 20th day of NOVEMBER 2003, by Neil J. Gaeta as President of **THE COVE OWNERS' ASSOCIATION**, a Florida not-for-profit corporation. He  is personally known to me or  has produced \_\_\_\_\_ as identification and did not take an oath.

Name: Tonette M. Fiaschi  
Notary Public, State of Florida  
My commission expires: APRIL 22, 2006

 Tonette M Fiaschi  
My Commission DD111033  
Expires April 22, 2006



**EXHIBIT 1  
LEGAL DESCRIPTION**

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 20, TOWNSHIP 41 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, THENCE, NORTH 01°04'29" EAST, ALONG THE WEST LINE OF SAID SECTION 20, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING.

THENCE, NORTH 01°04'29" EAST, ALONG THE WEST LINE OF SAID SECTION 20, A DISTANCE OF 1,100.32 FEET TO THE SOUTHWEST CORNER OF LOT 1 BLOCK 1 OF THE PLAT OF PALMWOOD ESTATES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 25, PAGE 184, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 88°52'50" EAST, ALONG SOUTH LINE OF SAID LOT 1, A DISTANCE OF 120.14 FEET TO THE WEST RIGHT-OF-WAY LINE OF ARDEL DRIVE OF THE AFOREMENTIONED PLAT OF PALMWOOD ESTATES; THENCE SOUTH OF 01°07'10" WEST, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 40.02 FEET TO THE SOUTHWEST CORNER OF SAID ARDEL DRIVE; THENCE SOUTH 87°52'10" EAST, ALONG THE SOUTH LINE OF ARDEL DRIVE AND THE SOUTH LINE OF LOTS 1 THROUGH 11, BLOCK 2, INCLUSIVE, OF SAID PALMWOOD ESTATES, A DISTANCE OF 923.62 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF PALMWOOD ROAD AS RECORDED IN DEED BOOK 1015, PAGE 367 OF THE SAID PUBLIC RECORDS; THENCE SOUTH 01°06'49" WEST, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 330.31 FEET; THENCE NORTH 87°52'31" WEST, DEPARTING SAID WEST RIGHT-OF-WAY LINE AND ALONG THE NORTH LINE OF LOTS 8 THROUGH 15, INCLUSIVE, PLAT OF WATERWAY MANOR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 26, PAGE 242 OF THE SAID PUBLIC RECORDS, A DISTANCE OF 660.01 FEET; THENCE IN A SOUTHERLY DIRECTION, AS SHOWN ON THE SAID PLAT OF WATERWAY MANOR, THE FOLLOWING COURSES AND DISTANCES:

THENCE SOUTH 74°27'50" WEST, A DISTANCE OF 31.76 FEET;  
THENCE SOUTH 58°35'36" WEST, A DISTANCE OF 28.15 FEET;  
THENCE SOUTH 39°01'27" WEST, A DISTANCE OF 47.47 FEET;  
THENCE SOUTH 24°59'38" WEST, A DISTANCE OF 41.31 FEET;  
THENCE SOUTH 21°40'19" WEST, A DISTANCE OF 55.51 FEET;  
THENCE SOUTH 15°28'09" WEST, A DISTANCE OF 55.02 FEET;  
THENCE SOUTH 03°00'54" WEST, A DISTANCE OF 47.63 FEET;  
THENCE SOUTH 07°52'56" EAST, A DISTANCE OF 74.17 FEET;  
THENCE SOUTH 22°23'43" EAST, A DISTANCE OF 27.06 FEET;  
THENCE SOUTH 33°31'59" EAST, A DISTANCE OF 94.32 FEET;  
THENCE SOUTH 34°39'00" EAST, A DISTANCE OF 83.62 FEET;  
THENCE SOUTH 30°53'21" EAST, A DISTANCE OF 77.90 FEET;  
THENCE SOUTH 22°24'11" EAST, A DISTANCE OF 33.85 FEET;  
THENCE SOUTH 01°06'49" WEST, A DISTANCE OF 139.82 FEET TO A PONT ON THE NORTH RIGHT-OF-WAY LINE OF DONALD ROSS ROAD, AS RECORDED IN PLAT BOOK 2, PAGE 145 OF THE SAID PUBLIC RECORDS; THENCE NORTH 87°52'31" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 427.93 FEET TO THE POINT OF BEGINNING.

CONTAINING 591,087 SQUARE FEET OR 13.5695 ACRES, MORE OR LESS.

**EXHIBIT 2**  
**ARTICLES OF INCORPORATION**







04/24/2003 13:18:26 20030230636  
OR BK 15109 PG 1591  
Palm Beach County, Florida

Prepared by and return to:  
David M. Layman  
Greenberg Traurig, P.A.  
777 South Flagler Drive  
Suite 300 East  
West Palm Beach, Florida 33446

Will Call #42

**SECOND AMENDMENT TO THE COVE DECLARATION**

THIS SECOND AMENDMENT TO THE COVE DECLARATION (this "Amendment") is made as of April 23, 2003, by GAETA LIMITED PARTNERSHIP #2, a Florida limited partnership ("Declarant") and joined by THE COVE OWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation (the "Association").

**Background**

A. The Declarant together with others imposed The Cove Declaration, dated December 12, 2001, and recorded January 3, 2002 in Official Records Book 13271, Page 1332, of the Public Records of Palm Beach County, Florida (the "Original Declaration"), as amended by The Cove Declaration First Amendment and Assignment of Declarant, dated March 5, 2003 and recorded March 18, 2003, in Official Records Book 14937, Page 1560, of the Public Records of Palm Beach County, Florida (the "First Amendment"). The Original Declaration and the First Amendment are hereinafter collectively referred as the "Declaration".

B. Pursuant to Paragraph 30, Section 30.2 of the Declaration, since the "Turnover Date" (as defined in the Declaration) has not yet occurred, the Declarant has the right to amend the Declaration as it deems appropriate, and therefore, the Declarant wishes to amend the Declaration as described below.

**Terms of Amendment**

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. **Definitions.** All terms defined in the Declaration have the same meaning herein except as amended in this Amendment.
2. **Assignment.** In the First Amendment, the Individuals assigned all of their rights as Declarant under the Declaration to Declarant in accordance with Paragraph 29 of the Declaration. Declarant hereby acknowledges that it has accepted and assumed all of the responsibilities and obligations of the Individuals, and is the sole Declarant under the Declaration.
3. **Amendments to Paragraph 2, Definitions.**
  - (a) The definition of "**Builder**" is hereby added to paragraph 2, as follows:

"Owners shall be responsible for all actions of their minor children, guests and invitees at all times in and about The Cove.

8. Amendment to Paragraph 5, Section 5.30.

The second sentence of section 5.30 is hereby amended by adding the following at the end of that sentence:

"except as allowed under applicable laws permitting self-defense."

9. Amendments to Paragraph 5, Section 5.36.

Section 5.36 is hereby deleted in its entirety.

10. Amendment to Paragraph 5, Section 5.43.

Section 5.43 is hereby amended by inserting the word "be" after the first reference to the word "shall" in line two (2) of said section.

11. Amendment to Paragraph 7, Section 7.2.

Section 7.2 is hereby amended by inserting the phrase "or their successors and assigns" after reference to "Seacoast Utility Authority" in line two (2) of said section.

12. Amendment to Paragraph 16, Section 16.10.1.

The reference in Section 16.10.1 to Section "617.303(6)" of the Florida Statutes is hereby corrected to "Section 720.303(6)."

13. Amendment to Paragraph 16, Section 16.11

The following is added at the end of the second sentence of Section 16.11:

"; provided, however, that if the Declarant transfers a Lot to a Builder, such amount shall be collected when the Builder transfers the Lot to another Owner."

14. Amendment to Paragraph 33, Section 33.6.

Section 33.6 is hereby amended by adding to the first sentence and the last sentence of said section the phrase "or certificate of title" after the word "deed" therein.

15. Amendments to By-Laws of The Cove Owners' Association Inc. ("By-Laws") (Exhibit 3 to the Original Declaration).

(a) The reference to the word "Homeowners" in the name and title of the By-Laws is hereby deleted and replaced with "Owners" in lieu thereof.

**"Builder"** shall mean any party, other than Declarant, who has purchased a Lot to construct a Home thereon for the purpose of resale to a consumer.

(b) The definition of **"Declarant"** in paragraph 2 is hereby amended by deleting the words "and the INDIVIDUALS" in first sentence. Additionally, in the second sentence of said definition the words "need not be recorded" shall be deleted and replaced with "shall be recorded" in lieu thereof.

(c) The definition of **"Individuals"** in paragraph 2 is hereby deleted in its entirety.

(d) The definition of **"Turnover Date"** in paragraph 2 is hereby deleted in its entirety and replaced with the following:

**"Turnover Date"** shall mean, unless turned over sooner by Declarant, in its sole and absolute discretion, three (3) months after ninety percent (90%) of the Lots in all phases of the community, that will ultimately be operated by the Association, have been conveyed by the Declarant to Owners. For the purposes of determining the Turnover Date only, Owners shall not include builders who purchase a Lot for resale.

4. Amendments to Paragraph 5, Section 5.5.

Section 5.5 is hereby deleted in its entirety and replaced with the following:

"Each Lot in The Cove is subject to applicable building code, including setback requirements, the upland retaining wall, if any, abutting such Lot and the minimum building requirements set forth in the applicable sections of this paragraph 5 and all requirements of the ARC as set forth in paragraph 18 herein."

5. Amendment to Paragraph 5, Section 5.12.

Section 5.12 is hereby amended by adding the following as the second sentence to that section:

"However, holiday lights and decorations shall be permitted, provided however, that (i) the same shall not be visible for more than a total of forty-five (45) consecutive days in any one year and (ii) such lights and decorations shall not create a nuisance to other Owners."

6. Amendment to Paragraph 5, Section 5.18.

The second sentence of section 5.18 is hereby amended by adding the following phrase at the end of said sentence:

"so as to prevent the intended use of storage of vehicles therein."

7. Amendment to Paragraph 5, Section 5.29.

Section 5.29 is hereby deleted in its entirety and replaced with the following:

(b) The definition "Turnover Date" in paragraph 2 of the By-Laws is hereby deleted in its entirety and replaced with the following:

"Turnover Date shall mean, unless turned over sooner by Declarant, in its sole and absolute discretion, three (3) months after ninety percent (90%) of the Lots in all phases of the community, that will ultimately be operated by the Association, have been conveyed by the Declarant to Owners. For the purposes of determining the Turnover Date only, Owners shall not include builders who purchase a Lot for resale."

(c) Section 7.3 of the By-Laws is hereby amended by deleting reference to "a certificate" in the first sentence and replacing same with "an estoppel certificate" in lieu thereof.

(d) The second sentence in section 7.3 of the By-Laws is hereby deleted in its entirety and replaced with the following:

"A reasonable fee for the costs associated with the issuance of an estoppel certificate may be charged by the Association to any party requesting said estoppel certificate."

(e) The last sentence in section 7.3 of the By-Laws is hereby amended by adding the word "estoppel" before the word "certificate" and by deleting the phrase "as against other than the Owner" in said sentence.

16. No Other Amendments. Except as set forth herein, the Declaration and By-Laws are not amended in any other respect and shall remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGES]









This is

**THE COVE DECLARATION  
FIRST AMENDMENT  
AND  
ASSIGNMENT OF DECLARANT**

This First Amendment And Assignment of Declarant to The Cove Declaration is hereby made and executed by GAETA LIMITED PARTNERSHIP #2, a Florida limited partnership, LOUIS A. GAETA, JR., NEIL J. GAETA, GARY T. NICKLAUS and MICHAEL S. NICKLAUS (collectively "Declarant") and joined by THE COVE OWNERS' ASSOCIATION, INC., Florida Not-for-profit-corporation ("Association"). this 5<sup>th</sup> day of March, 2003.

WHEREAS, the Declarant executed THE COVE DECLARATION, on the 14th day of December 2001, and recorded the same on January 3, 2002 in Official Record Book 1327 page 1332.

WHEREAS, Number 6 of THE COVE DECLARATION, refers to "drainage system described in the South Florida Water Management District Permit".

7760

WHEREAS, said South Florida Water Management District Permit was Issued on April 13, 2001, and Modified on August 20, 2001.

WHEREAS, Number 29 of THE COVE DECLARATION, states that "All or any part of the rights, exemptions and powers and reservations of Declarant herein contained may be conveyed or assigned in whole or part to other persons or entities by an instrument in writing duly executed, acknowledged, and recorded in the Public Records."

NOW THEREFORE, the Declarant hereby amends THE COVE DECLARATION, by adding thereto the above mentioned South Florida Water Management District Permit No. 50-04849-P dated April 13, 2001 and Permit Modification No. 50-04849-P dated August 20, 2001, which are attached hereto and made a part hereof.


Louis A. Gaeta, Jr., Neil J. Gaeta, Gary T. Nicklaus and Michael S. Nicklaus, hereby assign all of their rights, exemptions and powers and reservations as contained in THE COVE DECLARATION,

in whole to GAETA LIMITED PARTNERSHIP #2, a Florida limited partnership.

The remaining original provisions of THE COVE DECLARATION, remain in full force and effect to the extent that they are not modified or amended directly or indirectly by this amendment. To the extent of any conflict between the original Declaration and this amendment, it is the intention that this amendment shall control.

IN WITNESS WHEREOF, the Declarant has caused this amendment to be executed this 5<sup>th</sup> day of March, 2003.

GAETA LIMITED PARTNERSHIP #2  
a Florida Limited Partnership

By:   
Neil J. Gaeta, Managing Member  
of Gaeta LLC #2, the General  
Partner of Gaeta Limited  
Partnership #2


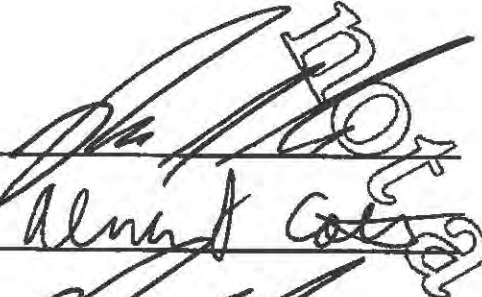
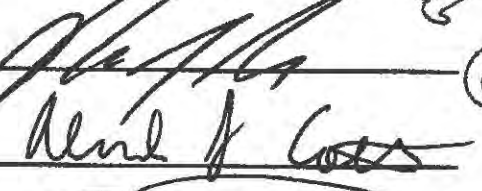




  
Louis A. Gaeta, Jr.

  
Neil J. Gaeta

  
Gary T. Nicklaus

  
Michael S. Nicklaus

CERTIFIED COPY

  
Mark J. Jones  
  
Albert Gots  
  
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Albert Gots  
  
Albert Gots

State of Florida  
County of Palm Beach

The foregoing instrument was acknowledged before me this 5TH day of March, 2003, by Neil J. Gaeta, The Managing Member of Gaeta LLC #2, the General Partner of Gaeta Limited Partnership #2, a Florida Limited Partnership who is personally known to me.

Tonette M. Diaschi  
Notary Public



Tonette M. Diaschi  
My Commission DD111033  
Expires April 22, 2006

State of Florida  
County of Palm Beach

The foregoing instrument was acknowledged before me this 5TH day of March, 2003, by Louis A. Gaeta, Jr., who is personally known to me.

Tonette M. Diaschi  
Notary Public



Tonette M. Diaschi  
My Commission DD111033  
Expires April 22, 2006

State of Florida  
County of Palm Beach

The foregoing instrument was acknowledged before me this 5TH day of March, 2003, by Neil J. Gaeta, who is personally known to me.

Tonette M. Diaschi  
Notary Public



Tonette M. Diaschi  
My Commission DD111033  
Expires April 22, 2006

State of Florida  
County of Palm Beach

The foregoing instrument was acknowledged before me this 12TH day of March, 2003 by Gary T. Nicklaus, who is personally known to me.

Tonette M. Diaschi  
Notary Public



Tonette M. Diaschi  
My Commission DD111033  
Expires April 22, 2006

THIS IS NOT A CERTIFIED COPY

State of Florida  
County of Palm Beach

The foregoing instrument was acknowledged before me this 5TH day of March, 2003 by Michael S. Nicklaus, who is personally known to me.

Janette M. Fischl  
Notary Public



Tonette M Fischl  
My Commission DD111039  
Expires April 22, 2008

This is not a certified copy

**JOINDER  
OF  
THE COVE OWNERS' ASSOCIATION, INC.**

THE COVE OWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation, does hereby join in the document to which this joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title. This joinder is for convenience only, and not a requirement of any document, or a condition precedent to the effectiveness of the document to which it is attached.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 5TH day of March, 2003.

WITNESSES:

*[Handwritten signature]*  
\_\_\_\_\_  
*[Handwritten signature]*  
\_\_\_\_\_


THE COVE OWNERS' ASSOCIATION,  
INC., a Florida not-for-profit  
corporation

By *[Handwritten signature]*  
\_\_\_\_\_  
Neil J. Gaeta, President

State of Florida  
County of Palm Beach

The foregoing instrument was acknowledged before me this 5TH day of March, 2003 by Neil J. Gaeta as President of THE COVE OWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation, who is personally known to me.

*[Handwritten signature]*  
\_\_\_\_\_  
Notary Public

 Donette M. Faschi  
My Commission DD111083  
Expires April 22, 2006

COPY



**MORTGAGEE JOINDER AND CONSENT:**

The undersigned Mortgagee does hereby join and consent to the Amendment of The Cove Declaration upon the lands therein described, said lands being subject to its mortgage, which is recorded in Official Record Book 12387, page 974 of the Public Records of Palm Beach County.

IN WITNESS WHEREOF, the undersigned has caused these presents to be executed in its name this 11<sup>th</sup> day of MARCH, 2003.

Shirley Salletto  
Witness Signature

By [Signature]  
Steven L. Eassa, Vice President  
FIRST VICE PRESIDENT

Gina L. Gillette  
Print Name

[Signature]  
Witness Signature

Alex Macsuga  
Print Name

State of Florida  
County of Palm Beach

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of March 2003, by Steven L. Eassa as Vice President of Fidelity Federal Savings Bank of Florida, who is personally known to me or who has produced n/a as identification and who did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this 11<sup>th</sup> day of March, 2003.

[Signature]  
Notary Public Gina L. Gillette



*Not a Certified Copy*







01/03/2002 14:51:35 20020003525  
DR BK 13271 PG 1332  
Palm Beach County, Florida

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Upon Recording Return to:  
GAETA Development Co.  
Attn: Neil J. Gaeta  
3555 Northlake Boulevard  
Palm Beach Gardens, Florida 33403

### THE COVE DECLARATION

THIS DECLARATION FOR THE COVE SUBDIVISION ("Declaration") is made by GAETA LIMITED PARTNERSHIP #2, a Florida limited partnership ("GLP"), LOUIS A. GAETA, JR., NEIL J. GAETA, GARY T. NICKLAUS and MICHAEL S. NICKLAUS (collectively "Declarant") and joined in by THE COVE OWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation ("Association").

#### RECITALS

- A. GLP and the INDIVIDUALS are the owners of the real property in Palm Beach County, Florida, more particularly described in Exhibit 1 attached hereto and made a part hereof ("The Cove").
- B. GLP and the INDIVIDUALS desire to subject The Cove to the covenants, conditions and restrictions contained in this Declaration.
- C. This Declaration is a covenant running with all of the land comprising The Cove, and each present and future owner of interests therein and their heirs, successors and assigns are hereby subject to this Declaration;

NOW THEREFORE, GLP and the INDIVIDUALS hereby declare that every portion of The Cove is to be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions and restrictions contained in this Declaration.

- 1. Recitals. The foregoing Recitals are true and correct and are incorporated into and form a part of this Declaration.
- 2. Definitions. In addition to the terms defined elsewhere in this Declaration, all initially capitalized terms herein shall have the following meanings:

"Access Control Program" shall mean any electronic and/or monitoring system intended to control access and/or enhance the safety and welfare of The Cove. THE PROVISION OF AN ACCESS CONTROL PROGRAM SYSTEM SHALL IN NO MANNER CONSTITUTE A WARRANTY OR REPRESENTATION AS TO THE PROVISION OF OR LEVEL OF SECURITY

WITHIN THE COVE. DECLARANT AND ASSOCIATION DO NOT GUARANTEE OR WARRANT, EXPRESSLY OR BY IMPLICATION, THE MERCHANTABILITY OF FITNESS FOR USE OF ANY COMMUNITY ACCESS CONTROL PROGRAM SYSTEM, OR THAT ANY SUCH SYSTEM (OR ANY OF ITS COMPONENTS OR RELATED SERVICES) WILL PREVENT INTRUSIONS, FIRES, OR OTHER OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE ACCESS CONTROL PROGRAM SERVICE IS DESIGNED TO MONITOR THE SAME. EACH AND EVERY OWNER AND THE OCCUPANT OF EACH HOME ACKNOWLEDGES THAT DECLARANT AND ASSOCIATION, THEIR EMPLOYEES, AGENTS, MANAGERS, DIRECTORS, AND OFFICERS, ARE NOT INSURERS OF OWNERS OR HOMES, OR THE PERSONAL PROPERTY LOCATED WITHIN HOMES. DECLARANT AND ASSOCIATION WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES, OR DEATHS RESULTING FROM ANY SUCH EVENTS.

"ARC" shall mean the Architectural Review Committee established pursuant to Section 18.1 hereof.

"Architectural Review Requirements" shall mean such standards of conduct, maintenance or other activity, if any, established by the ARC pursuant to Section 18.5 hereof.

"Articles" shall mean the Articles of Incorporation of Association filed with the Florida Secretary of State in the form attached hereto as Exhibit 2 and made a part hereof, as amended from time to time.

"Assessments" shall mean any assessments made in accordance with this Declaration and as further defined in Section 16.1 hereof.

"Association" shall mean The Cove Owners' Association, Inc., a Florida not-for-profit corporation, its successors and assigns.

"Association Expenses" shall mean all costs and expenses of Association and the Community Property including, without limitation, all costs of ownership; operation; administration; all amounts payable by Association; all amounts required to maintain the Surface Water Management System; all amounts payable in connection with any private street lighting; amounts payable to a Telecommunications Provider for Telecommunications Services furnished to all Owners (if any); landscape easement areas; utilities; taxes; insurance; bonds; Access Control Program costs; waterway; chain link fence; walls; gas lighting; salaries; management fees; professional fees; service costs; supplies; maintenance; repairs; replacements; refurbishments; and any and all costs relating to the discharge of the obligations hereunder, or as determined to be part of Association Expenses by Association in its sole discretion.

"Association Initial Expense Fund" shall have the meaning set forth in Section 16.11 hereof.

"Board" shall mean the Board of Directors of Association.

"Bulk Cable Assessments" shall have the meaning set forth in Section 16.1.4. hereof.

"By-Laws" shall mean the By-Laws of Association in the form attached hereto as Exhibit 3 and made a part hereof, as amended from time to time.

"Community Completion Date" shall mean the date upon which all Homes and/or Lots in The Cove, as ultimately planned and as fully developed, have been conveyed by Declarant and all other persons or entities, if any, holding the rights of Declarant to Owners.

"Community Documents" shall mean this Declaration, the Articles, the By-Laws, the Development Guidelines and the Rules and Regulations, if any.

"Community Property" shall mean all real property interests and personalty within The Cove designated as Community Property from time to time by Plat or recorded amendment to this Declaration and provided for, owned, leased by, or dedicated to, the common use and enjoyment of the Owners within The Cove. The Community Property may include, without limitation, community signage, open space areas, buffers, drainage areas, easements, landscape areas, improvements, additions, fences, walls, water and sewer lines not maintained by Seacoast Utility Authority, irrigation pumps, irrigation lines, sidewalks, streets, street lights, entranceways, features, fountains, entrance gates, electronic gates and call boxes and that portion of the waterway referred to as Tracts 0-5 on the Plat. The Community Property does not include any portion of a Home.

"Declarant" shall mean GLP and the INDIVIDUALS and any of their designees, successors and/or assigns who receive a written assignment of all or some of the rights of Declarant hereunder. Such assignment need not be recorded in the Public Records in order to be effective. In the event of such a partial assignment, the assignee shall not be deemed Declarant, but may exercise such rights of Declarant specifically assigned to it. Any such assignment may be made on a non-exclusive basis.

"Declaration" shall mean this Declaration together with all amendments and modifications thereof.

"Development Plan" may include the site plan, proposed Plat and marketing brochures for the development of The Cove, as it exists from time to time. The Development Plan is subject to change as set forth herein. The Development Plan is not a representation by Declarant as to the development of The Cove or its amenities, as Declarant reserves the right to amend all or part of the Development Plan from time to time.

"GLP" shall mean GAETA Limited Partnership #2

"Home" shall mean a residential home and appurtenances thereto constructed on a Lot within The Cove. A Home shall be a single-family detached estate home. The term Home may not reflect the same division of property as reflected on a Plat. The term "Home" includes any interest in land, improvements, or other property appurtenant to the Home.

"Individual Assessments" shall have the meaning set forth in Section 16.16. hereof.

"Individuals" shall mean Louis A. Gaeta, Jr., Neil J. Gaeta, Gary T. Nicklaus and Michael S. Nicklaus.

"Installment Assessments" shall have the meaning set forth in Section 16.1.1 hereof.

"Lender" shall mean (i) the institutional and licensed holder of a first mortgage encumbering a Home or Lot or (ii) Declarant and its affiliates, to the extent Declarant or its affiliates finances the purchase of a Home or Lot initially or by assignment of an existing mortgage.

"Lot" shall mean any platted lot shown on Plat.

"Mangrove" shall mean any specimen of the species *languncularia racemosa* (white mangrove), *rhizophora mangle* (red mangrove) or *avicennia germinans* (black mangrove).

"Owner" shall mean the record owner (whether one or more persons or entities) of fee simple title to any Home or Lot. The term "Owner" shall not include Declarant or a Lender.

"Permits" shall mean the South Florida Water Management District Permit No. 50-04849-P and the U.S. Army Corps of Engineers Permit No. 199903604 (IP-TA).

"Plat" shall mean any plat of any portion of The Cove filed in the Public Records as the same may be amended by Declarant, from time to time, including, without limitation, that certain plat recorded in Plat Book 92, Pages 51-54 in the Public Records.

"Public Records" shall mean the Public Records of Palm Beach County, Florida.

"Reserves" shall have the meaning set forth in Section 16.1.5 hereof.

"Rules and Regulations" shall mean the Rules and Regulations governing The Cove as adopted by the Board from time to time.

"Special Assessments" shall mean those Assessments more particularly described as Special Assessments in Section 16.1.2 hereof.

"Surface Water Management System" shall mean the collection of devices, improvements, or natural systems whereby surface waters are controlled, impounded or obstructed. This term may include, but is not limited to, exfiltration trenches, waterways, impoundments, drainage maintenance easements and all structures, works and/or improvements defined in the Permit. The Surface Water Management System will be maintained by the Association.

"Telecommunications Provider" shall mean any party contracting with Association to provide Owners with one or more Telecommunication Services. Declarant may be a Telecommunications Provider. With respect to any particular Telecommunications Services, there may be one or more Telecommunications Providers.

"Telecommunications Services" shall mean local exchange services provided by a certified local exchange carrier or alternative local exchange company, intraLATA, and interLATA voice telephony and data transmission service, Multichannel Video Programming Service, and Access Control. Without limiting the foregoing, such Telecommunications Services may include the provision of the following services: Toll Calls, Data Transmission Services, Basic Service, Expanded Basic Service and Premium Channels.

"Telecommunications Systems" shall mean all facilities, items and methods required and/or used in order to provide Telecommunications Services to The Cove. Without limiting the foregoing, Telecommunications Systems may include wires (fiber optic or other material), conduits, passive and active electronic equipment, pipes, wireless cell sites, computers, modems, satellite antennae site(s), transmission facilities, amplifiers, junction boxes, trunk distribution, drop cables, related apparatus, converters, connections, head-end antennae, earth station(s), appurtenant devices, network facilities necessary and appropriate to support provision of local exchange services and/or any other item appropriate or necessary to support provision of Telecommunications Services. Ownership and/or control of all of a portion of any part of the Telecommunications Services may be bifurcated among network distribution architecture, system head-end equipment, and appurtenant devices (e.g., individual adjustable digital units).

"The Cove" shall have the meaning set forth in the Recitals hereof subject to additions and deletions thereto as permitted pursuant to the terms of this Declaration. Declarant may, when amending or modifying the description of real property, which is subject to the operation of this Declaration, also amend or modify the definition of The Cove.

"Title Documents" shall have the meaning set forth in Section 33.6 hereof.

"Turnover Date" shall mean, unless turned over sooner by Declarant in its sole discretion, three (3) months after the date upon which ninety percent (90%) of the Homes which will ultimately be built or Lots within The Cove have been conveyed by Declarant to Owners.

"Use Fees" shall have the meaning set forth in Section 16.1.3 hereof.



“Wetlands” shall mean those areas that are saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, including the mangrove wetland preservation area protected by the U.S. Army Corps of Engineers Permit.

3. Community Property Generally. NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, THE DEFINITION OF "COMMUNITY PROPERTY" AS SET FORTH IN THIS DECLARATION IS FOR DESCRIPTIVE PURPOSES ONLY AND SHALL IN NO WAY BIND OR OBLIGATE DECLARANT TO SUPPLY ANY SUCH ITEM AS SET FORTH IN SUCH DESCRIPTION. FURTHER, NO PARTY SHALL BE ENTITLED TO RELY UPON SUCH DESCRIPTION AS A REPRESENTATION OR WARRANTY AS TO THE EXTENT OF THE COMMUNITY PROPERTY TO BE OWNED, LEASED BY OR DEDICATED TO ASSOCIATION, EXCEPT AFTER CONSTRUCTION AND DEDICATION OR CONVEYANCE OF ANY SUCH ITEM. In addition, the following provisions shall be applicable to the Community Property.

3.1. Prior to Conveyance. Prior to the conveyance, identification and/or dedication of the Community Property to Association, any portion of the Community Property owned by Declarant shall be operated, maintained, and administered at the sole cost of Association for all purposes and uses reasonably intended, as Declarant in its sole discretion deems appropriate. During such period, Declarant shall own, operate, and administer the Community Property without interference from any Owner or Lender of a Home or any other person or entity whatsoever. Owners shall have no right in or to any Community Property referred to in this Declaration unless and until same are actually constructed, completed, and conveyed to, leased by, dedicated to, and maintained by Association. The current conceptual plans and/or representation, if any, regarding the composition of the Community Property are not a guarantee of the final composition of the Community Property. Declarant has no obligation or responsibility to construct or supply any such Community Property of Association, and no party shall be entitled to rely upon any statement contained herein as a representation or warranty as to the extent of the Community Property to be owned, leased by, or dedicated to Association. Declarant, so long as it controls Association, further specifically retains the right to add to, delete from, or modify any of the Community Property referred to herein.

3.2. Construction of Community Property. Declarant has constructed or will construct, at its sole cost and expense, certain improvements as part of the Community Property. Declarant shall be the sole judge of the composition of such improvements. Prior to the Community Completion Date, Declarant reserves the absolute right to construct additional Community Property within The Cove, from time to time, in its sole discretion, and to remove, add to modify and change the boundaries and improvements now or then part of the Community Property. Declarant is not obligated to, nor has it represented that it will, modify or add to the Community Property as it is contemplated as of the date hereof. Declarant is the sole judge of the foregoing, including the plans, specifications, design, location, completion schedule, materials, size, and contents of the improvements, appurtenances, color, textures, finishes, or the Community Property, or changes or modifications to any of them.

3.3. Use of Community Property by Declarant. Until the Community Completion Date, Declarant shall have the right to use any portion of the Community Property, without charge, for any purpose deemed appropriate by Declarant.

3.4. Conveyance. After the Community Completion Date, or earlier as determined by Declarant in its sole discretion, all or portions of the Community Property may be dedicated by Plats, created in the form of easements, or conveyed by written instrument recorded in the Public Records, or by Quitclaim Deed from Declarant to Association. The dedication, creation by easement, or conveyance shall be subject to easements, restrictions, reservations, conditions, limitations, and declarations of record, real estate taxes for the year of conveyance, zoning, land use regulations and survey matters. Association shall be deemed to have assumed and agreed to pay all continuing obligations and service and similar contracts relating to the ownership operation, maintenance, and administration of the conveyed portions of Community Property and other obligations relating to the Community Property imposed herein. Association shall, and does hereby, indemnify and hold Declarant harmless on account thereof. Association, by its joinder in this Declaration, hereby accepts such dedication(s) or conveyance(s) without setoff, condition, or qualification of any nature. The Community Property shall be dedicated or conveyed in "as is, where is" condition WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, IN FACT OR BY LAW, AS TO THE CONDITION, FITNESS OR MERCHANTABILITY OF THE COMMUNITY PROPERTY BEING CONVEYED.

3.5. Operation After Conveyance. After the conveyance or dedication of any portion of the Community Property to Association, the portion of the Community Property so dedicated shall be owned, operated and administered by Association for the use and benefit of the owners of all property interests in The Cove. Subject to Association's right to grant easements, and other interests as provided herein, Association may not convey, abandon, alienate, encumber, or transfer all or a portion of the Community Property to a third party without (i) if prior to the Community Completion Date, the approval of (a) a majority of the Board; and (b) the consent of Declarant, or (ii) from and after the Community Completion Date, approval of (a) seventy-five percent (75%) of the Board; and (b) seventy-five percent (75%) of all of the votes in Association.

3.6. Paved Community Property. Association shall be responsible for the maintenance of all roads, drainage systems, and sidewalks forming a part of the Community Property.

3.7. Delegation. Once conveyed or dedicated to Association, the Community Property shall, subject to the provisions of this Declaration and the document of conveyance or dedication, at all times be under the complete supervision, operation, control, and management of Association. Further, in the event that Community Property is created by easement, Association's obligations and rights with respect to such Community Property may be limited by the terms of the document creating such easement.

### 3.8. Use.

3.8.1. Nonexclusive Use. The Community Property shall be used and enjoyed by the Owners on a non-exclusive basis in common with other persons, entities and corporations (who may, but are not required to be, members of Association) entitled to use those portions of the Community Property. Prior to the Community Completion Date, Declarant, and thereafter, Association, has the right to make the Community Property available to other individuals, persons, firms, or corporations, as it deems appropriate. The granting of such rights shall not invalidate this Declaration, reduce or abate any Owner's obligations pursuant to this Declaration, or give any Owner the right to avoid any of the covenants, agreements or obligations to be performed hereunder.

3.8.2. Right to Allow Use. Declarant and/or Association may enter into easement agreements or other use or possession agreements whereby the Owners, Telecommunications Providers, and/or Association and/or others may obtain the use, possession of, or other rights regarding certain property, on an exclusive or non-exclusive basis, for certain specified purposes. Association may agree to maintain and pay the taxes, insurance, administration, upkeep, repair, and replacement of such property, the expenses of which shall be Association Expenses. Any such agreement by Association prior to the Community Completion Date shall require the consent of Declarant.

3.8.3. Waterway. The water levels of the waterway may vary from time to time and there is no guarantee that the water levels will be constant or aesthetically pleasing. The Association may not obstruct, encumber, fence, block or prohibit access over and across the waterway. Swimming is strictly prohibited within waterway. No removal of water, dredging, discharge of any material, removal or interference with aquatic vegetation or alteration of banks or shoreline of the waterway is permitted. Further, Declarant and Association shall not be obligated to dredge, expand or render the waterway navigable.

3.8.4. Obstruction of Community Property. No portion of the Community Property may be obstructed, encumbered, fenced, blocked, prohibited access over or used by Owners for any purpose other than as permitted by Association and this Declaration.

3.8.5. Assumption of Risk. Without limiting any other provision herein, each person within any portion of the Community Property accepts and assumes all risk and responsibility for noise, liability, injury, or damage connected with use or occupation of any portion of such Community Property, including, without limitation, (a) noise from maintenance equipment, (b) use of pesticides, herbicides and fertilizers, (c) view restrictions caused by maturation of trees and shrubbery, (d) reduction in privacy caused by the removal or pruning of shrubbery or trees within any portion of the Community Property and (e) design of any portion of the Community Property. The person also expressly indemnifies and agrees to hold harmless Declarant, Association, and all employees, directors, representatives, officers, agents, and partners of the foregoing, from any and all damages, whether direct or consequential, arising from or related to the person's use of the Community Property, including for attorneys' fees, paraprofessional fees and costs at trial and upon appeal. Without limiting

the foregoing, all persons using the Community Property do so at their own risk. BY ACCEPTANCE OF A DEED, EACH OWNER ACKNOWLEDGES THAT THE COMMUNITY PROPERTY MAY CONTAIN WILDLIFE SUCH AS ALLIGATORS, FISH, SHARKS, RACOONS, DEER, FOWL, SNAKES AND FOXES. DECLARANT AND ASSOCIATION SHALL HAVE NO RESPONSIBILITY FOR MONITORING SUCH WILDLIFE OR NOTIFYING OWNERS OR OTHER PERSONS OF THE PRESENCE OF SUCH WILDLIFE. EACH OWNER AND HIS OR HER GUESTS AND INVITEES ARE RESPONSIBLE FOR THEIR OWN SAFETY.

3.8.6. Owner's Obligation to Indemnify. Each Owner agrees to indemnify and hold harmless Declarant and Association, their officers, partners, agents, employees, affiliates, directors and attorneys (collectively, "Indemnified Parties") against all actions, injury, claims, loss, liability, damages, costs and expenses of any kind or nature whatsoever ("Losses") incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to the Community Property, by the Owners, and their guests, family members, invitees, or agents, or the interpretation of this Declaration and/or exhibits attached hereto and/or from any act or omission of Declarant, Association, or of any of the Indemnified Parties. Should any Owner bring suit against Declarant, Association, or any of the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, such Owner shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorney's fees and paraprofessional fees at trial and upon appeal.

#### 4. Maintenance by Association.

4.1. Community Property. Except as otherwise specifically provided in this Declaration to the contrary, Association shall at all times maintain, repair, replace and insure the Community Property, including all improvements placed thereon.

4.2. Negligence. The expense of any maintenance, repair or construction of any portion of the Community Property necessitated by the negligent or willful acts of an Owner, or persons utilizing the Community Property through or under an Owner, shall be borne solely by such Owner and the Home owned by that Owner shall be subject to an Individual Assessment for that expense. By way of example, and not of limitation, an Owner shall be responsible for the removal of all landscaping and structures placed within easements or Community Property without the prior written approval of Association. In the event that an Owner does not (i) obtain approval and (ii) remove the landscaping and structures, Association may remove such landscaping or structure and charge the costs incurred to such Owner as an Individual Assessment.

4.3. Right of Entry. Declarant and Association are granted a perpetual and irrevocable easement over, under and across The Cove for the purposes herein expressed, including, without limitation, for inspections to ascertain compliance with the provisions of this Declaration, and for the performance of any maintenance, alteration or repair which it is entitled to perform. Without limiting

the foregoing, Declarant specifically reserves easements for all purposes necessary to comply with any governmental requirement or to satisfy any condition that is a prerequisite for a governmental approval or permit. By way of example, and not of limitation, Declarant may construct, maintain, repair, alter, replace and/or remove improvements; install landscaping; install utilities; install signage and/or remove structures on any portion of The Cove if Declarant is required to do so in order to comply with permit obligations or to obtain the release of any bond posted with any governmental agency.

4.4. Maintenance of Property Owned by Others. Association shall, if designated by Declarant by amendment to this Declaration or by other notice or direction, maintain vegetation, landscaping, sprinkler system, community identification/features and/or other areas or elements which are within or outside of The Cove. Such areas may abut, or be proximate to, The Cove, and may be owned by, or be dedicated to, others including, but not limited to, a utility, governmental or quasi-governmental entity. These areas may include (for example and not limitation) swale areas, landscape buffer areas, berm areas or median areas within the right-of-way of public streets, roads, drainage areas, community identification or features, community signage or other identification.

4.5. Walls. Association and Owners shall maintain the sea walls and landscape buffer walls within The Cove as set forth below.

4.5.1. Lots Abutting Bulkhead Wall. Declarant will construct or has constructed a bulkhead wall within The Cove. The Owner of any Lot abutting the bulkhead wall shall be responsible for the maintenance and repair of the bulkhead wall abutting such Owner's Lot. In the event an Owner fails to maintain the bulkhead wall, Association shall have the right, but not the obligation, to enter such noncomplying Owner's Lot and perform the necessary maintenance to the wall and charge the Owner for the costs thereof as an Individual Assessment. The Lots that are anticipated to abut the bulkhead wall are described on Exhibit 4. Association shall be responsible for the maintenance and repair of such wall within the Community Property.

4.5.2. Lots Abutting Upland Retaining Wall. Declarant will construct or has constructed an upland retaining wall within The Cove. The Owner of any Lot abutting the upland retaining wall shall maintain the portion of the upland retaining wall abutting each Owner's Lot. In the event an Owner fails to maintain the upland retaining wall, Association shall have the right, but not the obligation, to enter such noncomplying Owner's Lot and perform the necessary maintenance to the wall and charge the Owner for the costs thereof as an Individual Assessment. The Lots that are anticipated to abut the upland retaining wall are described on Exhibit 5.

4.5.3. Lots Abutting Bulkhead and Upland Retaining Walls. The Owner of any Lot abutting both the bulkhead and upland retaining wall shall maintain the portion of the bulkhead and upland retaining wall abutting each Owner's Lot. In the event an Owner fails to maintain the bulkhead and upland retaining wall, Association shall have the right, but not the obligation, to enter such noncomplying Owner's Lot and perform the necessary maintenance to the wall and charge the Owner

for the costs thereof as an Individual Assessment. The Lots that are anticipated to abut both the bulkhead and upland retaining wall are described on Exhibit 6.

4.5.4. Landscape Buffer Wall. Declarant will construct or has constructed a landscape buffer wall within The Cove. Association shall be responsible for the maintenance and repair of such wall within the Community Property.

5. Use Restrictions.

5.1. Alterations and Additions. No material alteration, addition or modification to a Home, or material change in the appearance thereof, shall be made without the prior written approval thereof being first had and obtained from the ARC as required by this Declaration.

5.2. Artificial Vegetation. No artificial grass, plants or other artificial vegetation, markers, memorials, or rocks or other landscape devices, shall be placed or maintained upon the exterior portion of any Home, unless approved by the ARC.

5.3. Boats and Personal Watercraft. Except as otherwise prohibited by governmental rules, regulations and/or permits, no more than one (1) boat and one (1) personal watercraft or two (2) personal watercraft shall be permitted to be docked behind each Home. No commercial or live-aboard boats shall be permitted. No dockside fueling of boats or personal watercraft shall be permitted.

5.4. Builder Program. In order to preserve construction quality and ease the purchase and building process of Homes in The Cove, Declarant and the Association have instituted an exclusive homebuilder program for the initial construction of Homes in the subdivision. All Owners are encouraged to use the exclusive homebuilder(s) selected by Declarant and the Association. In the event an Owner chooses not to use the exclusive homebuilder(s) for the subdivision, said Owner shall pay a non-refundable fee of \$50,000.00 to Declarant. The fee shall be due and payable upon Closing of the Purchase and Sale of the Lot. In the event of nonpayment, Declarant and the Association shall have lien rights to collect the fee as provided in Section 16.14 herein.

5.5. Building Restrictions. Each Lot in The Cove is subject to applicable building codes, including setback requirements; the upland retaining wall and/or bulkhead wall, if any, abutting such Lot and the minimum building requirements set forth in Section 5.28 hereof.

5.6. Casualty Destruction to Improvements. A Home shall be deemed created and have perpetual existence upon the issuance of a final or temporary Certificate of Occupancy for such residence; provided, however, the subsequent loss of such Certificate of Occupancy (e.g., by casualty or remodeling) shall not affect the status of a Home, or the obligation of Owner to pay Assessments with respect to such Home.

5.7. Coach Lights. Coach lights and exterior landscape lighting, if any, must be approved by the ARC. Such lighting must be installed within the perimeter of a Lot and shall be maintained and replaced by the Owner of such Lot.

5.8. Commercial Activity. Except for normal construction activity, sale, and re-sale of a Home, administrative offices of Declarant, no commercial or business activity shall be conducted in any Home within The Cove. Notwithstanding the foregoing, and subject to applicable laws, an Owner may maintain a home business office within a Home for such Owner's personal use; provided, however, business invitees, customers, and clients shall not be permitted to meet with Owners in Homes unless the Board provides otherwise. No Owner may actively engage in any solicitations for commercial purposes within The Cove. No solicitors of a commercial nature shall be allowed within The Cove, without the prior written consent of Association. No garage sales are permitted except as permitted by Association. No day care center, group babysitting service or day care facility may be operated out of a Home. Prior to the Community Completion Date, Association shall not permit any garage sales without the prior written consent of Declarant.

5.9. Completion and Sale of Units. No person or entity shall interfere with the completion and sale of Homes within The Cove. WITHOUT LIMITING THE FOREGOING, EACH OWNER, BY ACCEPTANCE OF A DEED, AGREES THAT ACTIONS OF OWNERS MAY IMPACT THE VALUE OF HOMES; THEREFORE, EACH OWNER IS BENEFITTED BY THE FOLLOWING RESTRICTION: PICKETING AND POSTING OF NEGATIVE SIGNS IS STRICTLY PROHIBITED IN ORDER TO PRESERVE THE VALUE OF THE HOMES IN THE COMMUNITY AND RESIDENTIAL ATMOSPHERE THEREOF.

5.10. Control of Contractors. Except for direct services which may be offered to Owners (and then only according to the Rules and Regulations relating thereto as adopted from time to time), no person other than an Association officer shall direct, supervise, or in any manner attempt to assert any control over any contractor of Association.

5.11. Cooking. No cooking shall be permitted nor shall any goods or beverages be consumed on the Community Property except as approved by Association.

5.12. Decorations. No decorative objects including, but not limited to, bird baths, light fixtures, sculptures, statutes, weather vanes, or flagpoles shall be installed or placed within or upon any portion of The Cove without the prior written approval of the ARC.

5.13. Disputes as to Use. If there is any dispute as to whether the use of any portion of The Cove complies with this Declaration, such dispute shall, prior to the Community Completion Date, be decided by Declarant, and thereafter by Association. A determination rendered by such party with respect to such dispute shall be final and binding on all persons concerned.

5.14. Docks, Davits, Boat Slips, Boatlifts and Mooring Structures. No dock, davit, boat slip, boatlift or mooring structure shall be allowed without first obtaining the approval of the ARC and then obtaining all applicable permits from all controlling governmental authorities. A maximum of one dock per Lot is permitted. Each dock may contain a single powerboat slip or boatlift. No dock, davit, boat slip, boatlift or mooring structure shall be used for commercial purposes and are only for the use of Owners within The Cove. No dock, davit, boat slip, boatlift or mooring structure shall interfere with other Owners access rights over the waterway.

5.15. Drainage System. Excluding any portion of the drainage system dedicated to the Association, once a drainage system or drainage facilities are installed by Declarant, the maintenance of such system and/or facilities thereafter shall be the responsibility of the Owner of the Home, which includes such system and/or facilities. In the event that such system or facilities (whether comprised of swales, pipes, pumps, waterbody slopes, or other improvements) is adversely affected by landscaping, fences, structures, or additions, the cost to correct, repair, or maintain such drainage system and/or facilities shall be the responsibility of the Owner of each Home containing all or a part of such drainage system and/or facilities. By way of example, and not of limitation, if the Owner of one Home plants a tree (pursuant to ARC approval) and the roots of such tree subsequently affect pipes or other drainage facilities within another Home, the Owner that plants the tree shall be solely responsible for the removal of the roots which adversely affects the adjacent Home. Likewise, if the roots of a tree located within the Community Property adversely affect an adjacent Home, Association shall be responsible for the removal of the roots and the costs thereof shall be Association Expenses. Notwithstanding the foregoing, Association and Declarant shall have no responsibility or liability for drainage problems of any type whatsoever.

5.16. Driveways. All driveways shall be designed and constructed only in accordance with the design and with the materials as approved in accordance with this Declaration or the Architectural Review Requirements and must be maintained in clean, neat and attractive manner. No plain concrete or asphalt or gravel driveways shall be permitted. The use of brick, brick pavers and similar materials is required. Driveways shall be constructed in such a manner so that the flare of the driveway at the adjoining street pavement does not extend beyond a straight-line projection of the side property line of the Lot served by the driveway. In no event shall the driveway surface be less than five (5) feet from the side Lot line.

5.17. Extended Vacation and Absences. In the event a Home will be unoccupied for more than forty-five (45) days, the Home must be prepared prior to departure by: (i) notifying Association; (ii) removing all removable furniture, plants and other objects from outside the Home; and (iii) designating a responsible firm or individual to care for the Home, should the Home suffer damage or require attention, and providing a key to that firm or individual. The name of the designee shall be furnished to Association. Association shall have no responsibility of any nature relating to any unoccupied Home.

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5.18. Garages. Each Home shall at a minimum have a two-car garage. No portion of a garage shall be converted into a living space or storage area.

5.19. Garage Sales. No garage or yard sales are permitted unless as permitted by the Association.

5.20. Garbage. Each Owner shall regularly pick up all garbage, trash, refuse or rubbish on the Owner's Lot. Garbage, trash, refuse or rubbish that is required to be placed at the front of the Lot in order to be collected may be placed and kept at the front of the Lot after 5:00 p.m. on the day before the scheduled day of collection, and any trash facilities must be removed on the collection day. All garbage, trash, refuse or rubbish must be placed in appropriate trash facilities or bags. All containers, dumpsters or garbage facilities shall be stored inside a Home or fenced-in area and screened from view and kept in a clean and sanitary condition. No noxious or offensive odors shall be permitted.

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5.21. Hurricane Shutters. Any hurricane shutters or other protective devices visible from outside a Home shall be of a type approved by the ARC. Accordion and roll-up style hurricane shutters may not be left closed during hurricane season (nor at any other time). Any such approved hurricane shutters may be installed up to forty-eight (48) hours prior to the expected arrival of a hurricane and must be removed within seventy-two (72) hours after the end of a hurricane watch or warning or as the Board may determine otherwise. Any approval by the ARC shall not be deemed an endorsement of the effectiveness of hurricane shutters.

*— do we need them?*

5.22. Irrigation. Irrigation systems shall be maintained in such a manner so as to cause no stains on Homes, structures or paved areas. Association shall require from time to time, that Owners adopt systems to prevent stains (e.g., automatic deionization systems). Association and Owners shall not use the waterways to irrigate Community Property. Declarant, Owners and/or Association shall not have the right to use one or more pumps to remove water from the waterway for irrigation purposes. Wells are prohibited.

5.23. Laundry. Subject to the provisions of applicable laws, to the extent applicable, no rugs, mops, or laundry of any kind, or any other similar type article, shall be shaken, hung or exposed so as to be visible outside the Home.

5.24. Lawful Use. No immoral, improper, offensive or unlawful use shall be made of any portion of The Cove. All laws, zoning ordinances and regulations of all governmental entities having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental entities for maintenance, modification or repair of a portion of The Cove shall be the same as the responsibility for maintenance and repair of the property concerned.

5.25. Leases. Homes may be leased, licensed or occupied only in their entirety and no fraction or portion may be rented. No bed and breakfast facility may be operated out of a Home. Individual rooms of a Home may not be leased on any basis. No transient tenants may be

accommodated in a Home. All leases or occupancy agreements shall be in writing and approved in advance by the Association and all prospective tenants shall be subject to the prior written approval of the Association. A copy of all executed leases shall be provided to Association. No Home may be subject to more than one (1) lease in any twelve (12) month period, with a minimum three (3) month lease term. No time-share or other similar arrangement is permitted. The Owner must make available to the lessee or occupants copies of the Community Documents.

5.26. Maintenance.

5.26.1. Standard of Maintenance. All lawns, landscaping and sprinkler systems and any property, structures, improvements, fences and appurtenances shall be well maintained and kept in first class, good, safe, clean, neat and attractive condition consistent with the general appearance of The Cove.

5.26.2. Maintenance of Lots. All lawns and landscaping on the Lots shall be maintained by the Association, the cost of which shall be included in the Association Expenses and payable as a portion of the Assessments against Owners. No weeds, underbrush, dead or dying trees and landscape materials or other unsightly growths shall be permitted to grow or remain on any Lot.

5.26.3. Maintenance of Fences and Walls. The perimeter wall on Lot 11 shall be maintained by the Association. Notwithstanding the foregoing, each Owner shall be responsible to maintain any fences and walls on the Owner's Lot subject to the maintenance provisions set forth in Section 4.5 of this Declaration. Failure by an Owner to properly maintain any such fences or walls shall be cause for Association to enter upon the Lot to maintain the fences or walls and (i) such entry shall not be deemed a trespass and (ii) the disposal of removed material shall not be deemed a conversion. Any costs incurred by Association shall be borne by Owner as an Individual Assessment and shall be due and payable within fifteen (15) days after written request from Association for payment.

5.26.4. Driveway and Sidewalk Easement. Each Owner shall be responsible to repair any damage to a driveway and sidewalk which comprises part of a Home or Lot, including, but not limited to, any damage caused by Association or by the holder of any easement over which such driveway is constructed. Each Owner, by acceptance of a deed to a Home, shall be deemed to have agreed to indemnify and hold harmless Association and the holder of any such easement, including without limitation, all applicable utility companies and governmental agencies, their agents, servants, employees and elected officials, from and against any and all actions or claims whatsoever arising out of the use of the Community Property and any easement or the construction and/or maintenance of any driveway in that portion of the Community Property, easement area, or in a public right-of-way between the boundary of such Owner's Home or Lot and the edge of the adjacent paved roadway. Further, each Owner agrees to reimburse Association any expense incurred in repairing any damage to such driveway in the event that such Owner fails to make the required repairs, together with interest at the highest rate allowed by law.

5.26.5. Refuse, Trash, Junk or Unsightly Objects. No refuse, trash, junk or other unsightly objects shall be allowed to be placed or suffered to remain anywhere on any Lot. Failure by an Owner to keep the Lot free of refuse, trash, junk or other unsightly objects, shall be cause for Association to enter upon the Lot to remove said objectionable material and (i) such entry shall not be deemed a trespass and (ii) the disposal of removed material shall not be deemed a conversion. Any costs incurred by Association shall be borne by Owner as an Individual Assessment and shall be due and payable within fifteen (15) days after written request from Association for payment.

5.27. Mangroves. Certain portions of The Cove contain Mangroves. No Mangrove may be trimmed unless pursuant to applicable state and federal laws. In addition to the foregoing, no Mangrove may be trimmed, altered, destroyed or otherwise affected without obtaining applicable permits from all controlling governmental authorities and the prior written approval of the Association and the ARC. Further, no Mangroves may be planted within The Cove without the prior written approval of the Association and the ARC.

5.28. Minimum Home Size. No Home shall contain less than 3,000 square feet of air conditioned enclosed living area. The method of determining the square footage of the enclosed living area of a Home, structure or addition thereto, shall be to multiply together the horizontal dimensions of the walls forming the outer boundaries of the Home, structure or addition for each floor level. Open porches, atriums, screened-in patios, courtyards, garages and other similar type spaces shall not be taken into account in calculating the minimum air conditioned enclosed living area square footage as required herein.

5.29. Minors' Use of Facilities. Parents shall be responsible for all actions of their minor children at all times in and about The Cove.

5.30. Nuisances. No nuisance or any use or practice that is the source of unreasonable annoyance to others or which interferes with the peaceful possession and proper use of The Cove is permitted. No firearms shall be discharged within The Cove. Nothing shall be done or kept within the Community Property or a Home, which will increase the rate of insurance to be paid by Association.

5.31. Paint. Homes shall be repainted as often as needed but in any event within forty-five (45) days of notice by the ARC.

5.32. Parking. Owners' automobiles shall be parked in their garage. No vehicle, which cannot operate on its own power, shall remain on The Cove for more than twelve (12) hours, except in the garage of a Home. No repair, except emergency repair of vehicles shall be made within The Cove, except in the garage of a Home. No "commercial vehicle" (as such term is defined in the municipal or county code in effect on the date of recordation of this Declaration): (i) shall be permitted to be parked in The Cove for a period of more than four (4) hours per day unless such commercial vehicle is temporarily present and necessary in the actual construction, maintenance, or repair of a Home or other

improvements in The Cove or (ii) shall be permitted to be parked overnight or stored in The Cove unless fully enclosed within a garage. No recreational vehicle of any kind shall be parked overnight in The Cove, and no boats, boat trailers, trailers of any kind, campers, motor homes, mobile homes or buses shall be permitted to be parked in The Cove unless kept fully enclosed within a garage. No vehicle shall be used as a domicile or residence, either temporary or permanent.

5.33. Personal Property. All personal property of Owners or other occupants of Homes shall be stored within the Homes. No personal property may be stored on or any use made of on the Community Property. No personal property may be stored on or any use made of on any Lot or Home which is unsightly or which interferes with the comfort and convenience of others.

5.34. Pets and Animals.

5.34.1. Commonly accepted household pets such as dogs and cats may be kept in reasonable numbers all as determined by Association in its sole discretion. Aggressive pets, including, without limitation, pit bull terriers are specifically prohibited.

5.34.2. Swine, goats, horses, pigs, cattle, sheep, chickens, and the like, are hereby specifically prohibited. Animals, fowl and reptiles, which are deemed by the Board to be obnoxious, are prohibited. The determination of what is or what may be obnoxious shall be determined by Association in its sole discretion.

5.34.3. No animal breeding or sales as a business shall be permitted in The Cove.

5.34.4. A determination by the Board that an animal or pet kept or harbored in a Home is a nuisance shall be conclusive and binding on all parties. No pet or animal shall be "tied out" on the exterior of the Home or in the Community Property, or left unattended in a yard or on a balcony, porch, or patio. No dog runs or enclosures shall be permitted on any Home.

5.34.5. All pets shall be walked on a leash. No pet shall be permitted outside a Home except on a leash or in the fenced portion of a yard. When notice of removal of any pet is given by the Board, the pet shall be removed within forty-eight (48) hours of the giving of the notice.

5.35. Pools. No above ground pools shall be permitted. All pools and appurtenances installed shall require the approval of the ARC as set forth in this Declaration. All pools shall be adequately maintained and chlorinated. Unless installed by Declarant, no slides, or platforms shall be permitted without ARC approval. The drainage of a pool into another Lot, Community Property or into the waterway is prohibited.

5.36. Real Estate Sales and Leasing. In order to preserve real estate values in The Cove, the Association has retained an exclusive real estate brokerage to handle the sale, re-sale and leasing of all Homes in the subdivision.

5.37. Removal of Soil. No Owner shall remove soil or change the level of the land within any portion of The Cove, or plant landscaping which results in any permanent change in the flow of drainage of surface water within The Cove without the prior consent of the ARC.

5.38. Roofs. Roofs shall have a minimum pitch of 3:12 unless otherwise specifically approved to maintain compatibility with the style of the Homes, and shall be constructed of flat, Spanish "S" or barrel tile. If some other new, attractive material for roofing surfaces is discovered or invented, the ARC may, in its sole discretion, approve or disapprove the use of such new materials. Flat roofs shall generally not be permitted unless they enhance the design of the Home, are for small portions of the roof only, and/or will not be visible from outside of the Home.

5.39. Roofs and Pressure Treatment. Roofs and/or exterior surfaces and/or pavement, including, but not limited to, walks and drives, shall be pressure treated as often as appropriate but in any event within thirty (30) days of notice by the ARC.

5.40. Satellite Dishes and Antennae. No exterior visible antennae, radio masts, towers, poles, aerials, satellite dishes, or other similar equipment shall be placed on any Home without the prior written approval thereof being first had and obtained from the ARC as required by this Declaration. The ARC may require, among other things, that all such improvements be screened or located so as not to be visible from adjacent streets, adjacent Lots or the Community Property. Each Owner agrees that the location of such items must be first approved by the ARC in order to address the safety and welfare of the residents of The Cove. No Owner shall operate any equipment or device, which will interfere with the radio or television reception of others.

5.41. Signs and Other Structures. No sign (including brokerage or for sale/lease signs), flag, banner, sculpture, fountain, outdoor play equipment, solar equipment, artificial vegetation, sports equipment, advertisement, notice or other lettering shall be exhibited, displayed, inscribed, painted or affixed in or upon any part of a Home that is visible from the outside; provided, however, signs required by governmental agencies and approved by the ARC may be displayed (e.g., permit boards). No lawn ornament, fountain, solar equipment, artificial vegetation, or athletic equipment shall be placed in or upon any part of a Home that is visible from the outside without the prior written approval thereof being first had and obtained from the ARC as required by this Declaration. Notwithstanding anything to the contrary herein, no flagpole may be used to display anything other than the American flag.

5.42. Sports Equipment. Sports equipment may not be installed unless approved by the ARC, in its sole and absolute discretion and as follows:

5.42.1. Basketball Hoops and Backboard. Basketballs hoops and backboards shall be permitted if such items are aesthetically compatible, if nuisances to adjoining Lots and properties are minimized, if blocked from view from the street and if specifically approved by the ARC.

5.42.2. Play Sets and Equipment. Play sets, swing sets, jungle gyms, playhouse, sand boxes or other play equipment may be installed with ARC approval provided the same are screened, fully landscaped and blocked from view of neighboring Homes, adjacent property and the street, are located in the backyard or rear portion of the Home, are less than eight feet (8') in height, and are specifically approved as to location, screening, size, shape, color, materials, and other relevant factors by the ARC. All bicycles, tricycles, scooters, skateboards, and other play equipment, wading pools, baby strollers and similar items shall be stored so as to be not visible from the streets or adjacent Lots. No such items shall be allowed to remain on any Community Property or Lots so as to be visible from adjacent property when not in use.

5.42.3. Play Courts. Play courts, tennis courts and/or game courts are permitted upon approval by ARC, in its sole discretion. Any play court must also comply with the setback standards by the ARC. No lighting of the play courts is allowed and the play courts must be fully landscaped to block the view of such courts from the street and/or adjacent Lots.

5.43. Storage. No temporary or permanent utility or storage shed, storage building, tent, or other structure or improvement shall permitted and no other structure or improvement shall be constructed, erected, altered, modified or maintained without the prior approval of the ARC, which approval shall conform to the requirements of this Declaration and/or the Architectural Review Requirements.

5.44. Subdivision and Regulation of Land. No portion of any Lot shall be divided or subdivided or its boundaries changed without the prior written approval of Association. No Owner shall inaugurate or implement any variation from, modification to, or amendment of governmental regulations, land use plans, land development regulations, zoning, or any other development orders or development permits applicable to The Cove.

5.45. Substances. No inflammable, combustible or explosive fuel, fluid, chemical, hazardous waste, or substance shall be kept on or in any Home, except those, which are required for normal household use. All propane tanks and bottled gas for household and or pool purposes (excluding barbeque grill tanks) must be installed underground.

5.46. Use of Homes. Each Home is restricted to residential use as a residence by the Owner or permitted occupant thereof, its immediate family, guests, tenants and invitees.

5.47. Visibility on Corners. Notwithstanding anything to the contrary in these restrictions, no obstruction to visibility at street intersections shall be permitted and such visibility clearances shall be maintained as required by the ARC and governmental agencies.

5.48. Walls and Fences.

5.48.1. Walls and fences on Lots or Homes shall be subject to the review and approval of the ARC. If a wall or fence on a Lot or Home is approved in accordance with this Declaration and the Architectural Review Requirements, such wall or fence shall be located in a manner to minimize the area enclosed to that actually necessary to afford privacy. No wall or fence shall be constructed on a Lot or Home with a height of more than six (6) feet above the existing ground level of adjoining property unless specifically approved by the ARC. No wall or fence shall be constructed on a property line (unless specifically approved for good cause) or within any utility easements on a Lot or Home. The Owner of any Lot or Home on which a wall or fence has been constructed shall maintain a landscape buffer between the wall or fence and any adjacent Lot or Home property line.

5.48.2. No wall or fence shall be erected on any part of a Lot or Home facing a street unless specifically approved by ARC and only then in accordance with applicable setbacks.

5.48.3. A wall, fence or enclosure shall be constructed of materials and in accordance with design and color approvals of the ARC. No chain link fencing shall be allowed.

5.49. Wall Units. No window air conditioning unit may be installed in any window or exterior wall in a Home.

5.50. Waterway. A portion of the waterway within The Cove shall form a part of the Lots. The water levels of the waterway may vary from time to time and there is no guarantee that the water levels will be constant or aesthetically pleasing. No Owner may fence, block or prohibit access over and across the waterway. Notwithstanding the foregoing, an Owner may erect a fence landward of the upland retaining wall or bulkhead with the prior approval of the ARC. Swimming is strictly prohibited within waterway. No removal of water, dredging, discharge of any material, removal or interference with aquatic vegetation or alteration of banks or shoreline of the waterway is permitted. Further, Declarant and Association shall not be obligated to dredge, expand or render the waterway navigable. The state and federal government may make a future claim to ownership of the waterway and the underlying property so that a portion of the waterway within The Cove may be removed from the Lots.

5.51. Wetlands. No wetland may be trimmed, altered, destroyed or otherwise affected without obtaining applicable permits from all controlling governmental authorities and the prior written approval of the Association and the ARC. All wetlands shall be protected in perpetuity and maintained by the Association. Any amendment to the Declaration which would affect the wetlands within The Cove shall be submitted to the U.S. Army Corps of Engineers for review prior to the finalization of the amendment. The U.S. Army Corps of Engineers shall determine if the proposed amendment will require a modification of the U.S. Army Corps of Engineers Permit. If a modification is necessary, the modification must be approved by the U.S. Army Corps of Engineers prior to the amendment to the Declaration.

5.52. Window Treatments. Window treatments shall consist of drapery, blinds, decorative panels, or other tasteful window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one (1) week after an Owner or tenant first moves into a Home or when permanent window treatments are being cleaned, replaced or repaired.

6. Surface Water Management System.

6.1. Prohibited Acts. No Owner shall partake in any action that adversely affects the surface water management and drainage system of The Cove. In particular, no Owner shall install any landscaping or place any fill on the Owner's Lot, which would adversely affect the drainage of any contiguous Lot.

6.2. Duty to Maintain. The surface water management system shall be owned by the Association. Excluding the maintenance obligations of such other grantees of easements that may appear in the public records of Palm Beach County, Florida, including without limitation those certain easements recorded in Official Record Book 10887, page 1734 and official record book 10887, page 1752, the Association hereby accepts responsibility for the operation and maintenance of the surface water management and drainage system described in the South Florida Water Management District Permit. The Association shall have the power to levy Assessments for the operation, maintenance, and, if necessary, replacement of the surface water management and drainage system.

6.3. Amendment to Community Documents. Any amendment to the Declaration which would affect the surface water management and drainage system shall be submitted to the South Florida Water Management District for review prior to the finalization of the amendment. The South Florida Water Management District shall determine if the proposed amendment will require a modification of the South Florida Water Management District Permit. If a modification is necessary, the modification must be approved by the South Florida Water Management District prior to the amendment to the Declaration.

7. Sewer System.

7.1. Maintenance. Each low-pressure pump system, appurtenances and service line to the street connection shall be privately owned by the Owner of each Lot and shall be operated and maintained by the Association. The Association shall retain in perpetuity a qualified and licensed sewer maintenance operator to service the pump system, appurtenances and service line and such service shall include 24-hour emergency assistance as necessary. The pump system and appurtenances shall be accessible and placed upon the front portion of each Lot, on the side of each garage. No trees or landscaping shall be planted within six (6) feet of the service line to the street connection. The control panel and wet well for each pump system shall be locked at all times and the maintenance operator shall have the master key. The front of the control panel shall include a permanent sign with the maintenance operator's name and emergency phone number. In the event a of a maintenance



emergency, an Owner may contact the maintenance operator directly to request service. The Association shall provide each initial and all subsequent Owners with operating instructions for the pump system and shall maintain a 2410 volt 30 amp portable generator in good working condition at all times to support the pump system during extended power outages.

7.2. Ownership. The sewer system force main within the street right-of-way shall be owned and operated by Seacoast Utility Authority and at no time shall any other company or person service said system. In the event of any maintenance issues or operational problems with regard to the sewer system force main within the street right-of-way, Seacoast Utility Authority shall immediately be notified.

7.3. Prohibited Acts. No Owner shall undertake any action, which would adversely affect the sewer system of any Home.

8. Paramount Right of Declarant. Notwithstanding anything to the contrary herein, prior to the Community Completion Date, Declarant shall have the paramount right to dedicate, transfer, and/or convey (by absolute conveyance, easement, or otherwise) portions of The Cove for various public purposes or for the provision of Telecommunications Systems, or to make any portions of The Cove part of the Community Property, or to create and implement a special taxing district which may include all or any portion of The Cove. In addition, the Community Property of The Cove may include decorative improvements, berms, and waterways. Declarant may remove, modify, eliminate or replace these items from time to time in its sole discretion. Declarant specifically reserves the right to change the layout, composition, and design of all Community Property. Sales brochures, site plans, and marketing materials are not guarantees or representations as to what facilities, if any, will be included within the Community Property.

9. Responsibility of an Owner for Tenants, Occupants, Guests, and Invitees. Each Owner shall be responsible for the acts and omissions, whether negligent or willful, of any tenant or occupant in his Home, and for all guests and invitees of the Owner or any tenant or occupant, and in the event the acts or omissions of any of the foregoing shall result in any damage to the Community Property, or any liability to the Association, the Owner shall be assessed for same as in the case of any other Assessment, limited where applicable to the extent that the expense or liability is not met by the proceeds of insurance carried by the Association. Furthermore, any violation of any of the provisions of this Declaration, the Articles, or the By-Laws, by any tenant or occupant of any Home, or any guest or invitee of an Owner or any tenant or occupant of a Home, shall also be deemed a violation by the Owner, and shall subject the Owner to the same liability as if such violation was that of the Owner.

10. Right of Association to Evict Tenants, Occupants, Guests and Invitees. With respect to any tenant or occupant, and for all guests and invitees of the Owner or any tenant or occupant, other than an Owner and the members of his immediate family permanently residing with him in the Home, if such person shall materially violate any provision of this Declaration, the Articles or By-Laws, or shall create a nuisance or an unreasonable and continuous source of annoyance to the residents of The Cove,

or shall willfully damage or destroy any Community Property, then upon written notice by the Association such person shall be required to immediately leave The Cove and if such person does not do so, the Association is authorized to commence an action to evict such person or compel the person to leave The Cove and, where necessary, to enjoin such person from returning. The expense of any such action, including attorneys' fees, may be assessed against the applicable Owner, and the Association may collect such Assessment and have a lien for same as elsewhere provided. The foregoing shall be in addition to any other remedy of the Association.

## 11. Binding Effect and Membership

11.1. Term. The term of this Declaration shall be perpetual. Each Owner, by acceptance of title to a Home or Lot, and any person claiming by, through or under such Owner, agrees to be subject to this Declaration and the provisions hereof. The provisions of this Declaration are equitable servitudes and run with the land.

11.2. Transfer. The transfer of the fee title to a Home or Lot, whether voluntary or by operation of law, terminating the Owner's title to that Home or Lot shall terminate the Owner's rights to the use of and enjoyment of the Community Property as it pertains to that Home or Lot. An Owner's rights and privileges under this Declaration are not assignable separately from a Home or Lot. The Owner of each Home or Lot is entitled to the benefits of, and is burdened with the duties and responsibilities set forth in, the provisions of this Declaration. All parties acquiring any right, title and interest in and to any Home or Lot shall be fully bound by the provisions of this Declaration. In no event shall any Owner acquire any rights that are greater than the rights granted to, and limitations placed upon its predecessor in title pursuant to the provisions of this Declaration. In the event that any Owner desires to sell or otherwise transfer title of his or her Home or Lot, such Owner shall give the Board at least fourteen (14) days prior written notice of the name and address of the purchaser or transferee, the date on which such transfer of title is to take place, and such other information as the Board may reasonably require; it being expressly understood that all such purchasers or transferees are subject to the express written approval of the Association. The transferor shall remain jointly and severally liable with the transferee for all obligations of the Owner and the Home or Lot pursuant to this Declaration including, without limitation, payment of all Assessments accruing prior to the date of transfer. Until written notice is received as provided in this Section, the transferor and transferee shall be jointly and severally liable for Assessment accruing subsequent to the date of transfer. In the event that upon the conveyance of a Home or Lot an Owner fails in the deed of conveyance to reference the imposition of this Declaration on the Home or Lot, the transferring Owner shall remain liable for Assessments accruing on the Home or Lot from and after the date of conveyance.

11.3. Membership. Upon acceptance of title to a Home or Lot, and as more fully provided in the Articles and By-Laws, each Owner shall be a member of Association. Membership rights are governed by the provisions of the Articles and By-Laws. Membership shall be an appurtenance to and may not be separated from, the ownership of a Home or Lot.

11.4. Ownership by Entity. In the event that an Owner is other than a natural person, that Owner shall, prior to occupancy of the Home, designate one or more persons who are to be the occupants of the Home and register such persons with Association. All provisions of this Declaration and Rules and Regulations promulgated pursuant thereto shall apply to both such Owner and the designated occupants.

11.5. Voting Interest and Suspension. Voting interests in Association are governed by the provisions of the Articles and By-Laws. Without limiting any other provision therein Association may suspend the Voting Interest of an Owner for nonpayment of Installment Assessments that are delinquent in excess of ninety (90) days.

11.6. Document Recordation by Owners Prohibited. Neither Association nor any Owner, nor group of Owners, may record any documents, which, in any way, affect or restrict the rights of Declarant, or conflict with the provisions of this Declaration.

11.7. Conflicts. In the event of any conflict among this Declaration, the Articles, the By-Laws or any of the other Community Documents, this Declaration shall control.

12. Easement for Unintentional and Non-Negligent Encroachments. If any other building or improvement on a Home shall encroach upon another Home by reason of original construction by Declarant, then an easement for such encroachment shall exist so long as the encroachment exists.

13. Requirement to Maintain Insurance. Association shall maintain, unless it is reasonably determined that such insurance is unavailable or cost prohibitive, all insurance and fidelity bonds deemed necessary by the Board.

13.1. Association. The costs of all insurance maintained by Association hereunder, and any other fees or expenses incurred which may be necessary or incidental to carry out the provisions hereof are Association Expenses.

13.2. Homes. Each Owner shall be required to obtain and maintain adequate property insurance on his or her Home. Such insurance shall be sufficient for necessary repair or reconstruction work, and/or shall cover the costs to demolish a damaged Home, remove the debris, and to resod and landscape land comprising the Home. Upon the request of Association, each Owner shall be required to supply the Board with evidence of insurance coverage on his Home which complies with the provisions of this Section. Without limiting any other provision of this Declaration or the powers of Association, Association shall specifically have the right to bring an action to require an Owner to comply with his or her obligations hereunder.

14. Requirement to Reconstruct or Demolish. In the event that any Home is destroyed by fire or other casualty, the Owner of such Home shall do one of the following: the Owner shall commence reconstruction and/or repair of the Home ("Required Repair"), or Owner shall tear the Home down,

remove all the debris, and resod and landscape the property comprising the Home as required by the ARC ("Required Demolition"). If an Owner elects to perform the Required Repair, such work must be commenced within thirty (30) days of the Owner's receipt of the insurance proceeds respecting such Home. If an Owner elects to perform the Required Demolition, the Required Demolition must be completed within three (3) months from the date of the casualty or such longer period of time established by the Board in its sole discretion. If an Owner elects to perform the Required Repair, such reconstruction and/or repair must be continued in a continuous, diligent, and timely manner. Association shall have the right to inspect the progress of all reconstruction and/or repair work. Without limiting any other provision of this Declaration or the powers of Association, Association shall have a right to bring an action against an Owner who fails to comply with the foregoing requirements. By way of example, Association may bring an action against an Owner who fails to either perform the Required Repair or Required Demolition on his or her Home within the time periods and in the manner provided herein. Each Owner acknowledges that the issuance of a building permit or a demolition permit in no way shall be deemed to satisfy the requirements set forth herein, which are independent of, and in addition to, any requirements for completion of work or progress requirements set forth in applicable statutes, zoning codes, and/or building codes.

14.1. Standard of Work. The standard for all demolition, reconstruction, and other work performed as required by this Section shall be in accordance with the Development Guidelines and any other standards established by Association with respect to any casualty that affects all or a portion of The Cove.

14.2. Additional Rights of Association. If an Owner refuses or fails, for any reason, to perform the Required Repair or Required Demolition as herein provided, then Association, in its sole and absolute discretion, by and through its Board is hereby irrevocably authorized by such Owner to perform the Required Repair or Required Demolition. All Required Repair performed by Association pursuant to this Section shall be in conformance with the original plans and specifications for the Home, subject to approved modifications. Association shall have the absolute right to perform the Required Demolition to a Home pursuant to this Section if any contractor certifies in writing to Association that such Home cannot be rebuilt or repaired. The Board may levy an Individual Assessment against the Owner in whatever amount sufficient to adequately pay for Required Repair or Required Demolition performed by Association.

14.3. Association Has No Liability. Notwithstanding anything to the contrary in this Section, Association, its directors and officers, shall not be liable to any person should an Owner fail for any reason whatsoever to obtain insurance coverage on a Home. Moreover, Association, its directors and officers, shall not be liable to any person if Association does not enforce the rights given to Association in this Section.

14.4. Casualty to Community Property. Association is irrevocably appointed agent for each Owner of any interest relating to the Community Property to adjust all claims arising under insurance policies purchased by Association and to execute and deliver releases upon the payment of claims. In

the event of damage to the Community Property, or any portion thereof, Association shall be responsible for reconstruction after casualty. In the event of damage to a Home, or any portion thereof, the Owner shall be responsible for reconstruction after casualty.

14.5. Nature of Reconstruction. Any reconstruction of improvements hereunder shall be substantially in accordance with the plans and specifications of the original improvement, or as the improvement was last constructed, subject to modification to conform with the then current governmental regulations.

14.6. Additional Insured. Declarant and its respective Lender(s) shall be named as additional insured on all policies obtained by Association, as their interests may appear.

15. Property Rights.

15.1. Owners' Easement of Enjoyment. Every Owner and tenant, and his or her immediate family residing in the Home, and their guests and every owner of an interest in The Cove shall have a non-exclusive right and easement of enjoyment in and to those portions of the Community Property which it is entitled to use for their intended purpose, subject to the following provisions:

15.1.1. Easements, restrictions, reservations, conditions, limitations and declarations of record, now or hereafter existing, and the provisions of this Declaration, as amended.

15.1.2. The right of Association to suspend an Owner's rights hereunder or to impose fines in accordance with Chapter Section 617 of the Florida Statutes, as amended from time to time.

15.1.3. The right of any governmental agency to enter any portion of The Cove in order to comply with the Permits and/or as set forth in the Permits.

15.1.4. The right of Declarant and/or Association to dedicate or transfer all or any part of the Community Property. No such dedication or transfer shall be effective prior to the Community Completion Date without prior written consent of Declarant.

15.1.5. The perpetual right of Declarant to access and enter the Community Property at any time, even after the Community Completion Date, for the purposes of inspection and testing of the Community Property. Association and each Owner shall give Declarant unfettered access, ingress and egress to the Community Property so that Declarant and/or its agents can perform all tests and inspections deemed necessary by Declarant. Declarant shall have the right to make all repairs and replacements deemed necessary by Declarant. At no time shall Association and/or an Owner prevent, prohibit and/or interfere with any testing, repair or replacement deemed necessary by Declarant relative to any portion of the Community Property.

15.1.6. The right of Declarant and/or Association to modify the Community Property as set forth in this Declaration.

15.1.7. The rights of Declarant and/or Association regarding The Cove as reserved in this Declaration, including the right to utilize the same and to grant use rights, etc. to others.

15.1.8. Rules and Regulations adopted governing use and enjoyment of the Community Property.

15.1.9. An Owner relinquishes use of the Community Property at any time that a Home is leased to a tenant.

15.2. Ingress and Egress. An easement for ingress and egress is hereby created for pedestrian traffic over, across and through sidewalks, paths, driveways and lanes as the same, from time to time, may exist upon, or be designed as part of, the Community Property, and for vehicular traffic over, through and across such portions of the Community Property as, from time to time, may be paved and intended for such purposes.

15.3. Development Easement. In addition to the rights reserved elsewhere herein, Declarant reserves an easement for itself or its nominees over, upon, across, and under The Cove as may be required in connection with the development of The Cove and other lands designated by Declarant and to promote or otherwise facilitate the development, construction and sale and/or leasing of Homes, and other lands designated by Declarant. Without limiting the foregoing, Declarant specifically reserves the right to use all paved roads and rights of way within The Cove for vehicular and pedestrian ingress and egress to and from construction sites and for the construction and maintenance of any Telecommunications System provided by Declarant or Telecommunications Provider. Specifically, each Owner acknowledges that construction vehicles and trucks may use portions of the Community Property. Declarant shall have no liability or obligation to repave, restore, or repair any portion of the Community Property as a result of the use of the same by construction traffic, and all maintenance and repair of such Community Property shall be deemed ordinary maintenance of Association payable by all Owners as part of Association Expenses. Without limiting the foregoing, at no time shall Declarant be obligated to pay any amount to Association on account of Declarant's use of the Community Property for construction purposes. Declarant may use the Community Property for sales of new and used Homes. Further, Declarant may market other residences and commercial properties located outside of The Cove from Declarant's sales facilities located within The Cove. Declarant has the right to use all portions of the Community Property in connection with its marketing activities, including, without limitation, allowing members of the general public to inspect model Homes, installing signs and displays, holding promotional parties and picnics, and using the Community Property for every other type of promotional or sales activity that may be employed in the marketing of new and used residential Homes. The easements created by this paragraph, and the rights reserved herein in favor of Declarant, shall be construed as broadly as possible and supplement the

rights of Declarant set forth in Section 20 of this Declaration. At no time shall Declarant incur any expense whatsoever in connection with its use and enjoyment of such rights and easements.

15.4. Service and Utility Easements. Fire, police, health, sanitation and other public service and utility company personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Community Property. In addition, Telecommunications Providers shall also have the right to use all paved roadways for ingress and egress to and from Telecommunications Systems within The Cove. Seacoast Utility Authority shall have an easement over, across, through and under The Cove to maintain the water and sewer service lines, and appurtenances thereto.

15.5. Easement for Encroachments. In the event that any improvement upon Community Property, as originally constructed, shall encroach upon any other property or improvements thereon, or for any reason, then an easement appurtenant to the encroachment shall exist for so long as the encroachment shall naturally exist.

15.6. Delegation of Use. Every Owner shall be deemed to have delegated its right of enjoyment to the Community Property to occupants or lessees of that Owner's Home subject to the provisions of this Declaration and the Rules and Regulations, as may be promulgated, from time to time. Any such delegation or lease shall not relieve any Owner from its responsibilities and obligations provided herein.

15.7. Permits, Licenses and Easements. Prior to the Community Completion Date, Declarant, and thereafter Association, shall, in addition to the specific rights reserved to Declarant herein, have the right to grant, modify, amend and terminate permits, licenses and easements over, upon, across, under and through The Cove (including Homes and Lots) for Telecommunications Systems, utilities, roads and other purposes reasonably necessary or useful as it determines, in its sole discretion. To the extent legally required, each Owner shall be deemed to have granted to Declarant and, thereafter, Association an irrevocable power of attorney, coupled with an interest, for the purposes herein expressed.

15.8. Association Easement. The Association, through its duly authorized agents, employees or contractors, is hereby granted an easement over and across The Cove (including Homes and Lots) as may be reasonably necessary to effect and perform its obligation under this Declaration.

15.9. Drainage. A non-exclusive easement shall exist in favor of Declarant, the Association and its designees, and any other applicable water management district, state agency, and/or federal agency having jurisdiction over The Cove over, across and upon The Cove for drainage and water management purposes. An easement for ingress, egress and access shall exist for such parties to enter upon and over any portion of The Cove (including Homes and Lots) in order to construct, maintain, inspect, record data on, monitor, test, or repair, as necessary, any water management or drainage tract and facilities thereon and appurtenances thereto. No structure, landscaping, or other material shall be placed or be permitted to remain which may damage or interfere with the drainage or irrigation of The

Cove and/or installation or maintenance of utilities or which may obstruct or retard the flow of water through The Cove and/or water management areas and facilities or otherwise interfere with any drainage, irrigation and/or easement provided for in this section or the use rights set forth elsewhere in this Declaration.

15.10. Building Area. Lots adjacent to the waterway within The Cove may actually contain less building area than reflected on the Plat due to the as-built location of upland retaining walls, bulkheads and related facilities.

15.11. Duration. All easements created herein or pursuant to the provisions hereof shall be perpetual unless stated to the contrary.

16. Assessments.

16.1. Types of Assessments. Each Owner, by acceptance of a deed or instrument of conveyance for the acquisition of title in any manner (whether or not so expressed in the deed) to a Home or Lot, including any purchaser at a judicial sale, shall hereafter be deemed to have covenanted and agreed to pay to Association at the time and in the manner required by the Board, assessments or charges and any special assessments as are fixed, established and collected from time to time by Association (collectively, the "Assessments"). The Assessments levied by Association shall be used for, among other things, the purpose of promoting the recreation, health, safety and welfare of the residents of The Cove, and in particular for the improvement and maintenance of the Community Property and any easement in favor of Association, including but not limited to the following categories of Assessments as and when levied and deemed payable by the Board:

16.1.1. Any annual assessments or charges payable in quarterly installments for the purpose of operating Association and accomplishing any and all of its purposes, as determined in accordance herewith, including, without limitation, payment of Association Expenses and collection of amounts necessary to pay any deficits from prior years' operation (hereinafter "Installment Assessments");

16.1.2. Any special assessments for capital improvements, major repairs, emergencies the repair or replacement of the Surface Water Management System, or nonrecurring expenses (hereinafter "Special Assessments");

16.1.3. Any specific fees, dues or charges to be paid by Owners for any special services provided to or for the benefit of an Owner, Home or Lot, for any special or personal use of the Community Property, or to reimburse Association for the expenses incurred in connection with that service or use (hereinafter "Use Fees");

16.1.4. Any charges, including, without limitation, sales tax and franchise fees, for cable services provided to Homes ("Bulk Cable Assessments");



16.1.5. Assessments of any kind for the creation of reasonable reserves for any of the aforesaid purposes. At such time as there are improvements in any Community Property for which Association has a responsibility to maintain, repair, and replace, the Board may, but shall have no obligation to, include a "Reserve for Replacement" in the Installment Assessments in order to establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements comprising a portion of the Community Property (hereinafter "Reserves"). Assessments pursuant to this Section shall be payable in such manner and at such times as determined by Association, and may be payable in installments extending beyond the fiscal year in which the Reserves are approved. Until the Community Completion Date, Reserves shall be subject to the prior written approval of Declarant, which may be withheld for any reason; and

16.1.6. Assessments for which one or more Owners of Homes or Lots (but less than all Owners) within The Cove is subject ("Individual Assessments") such as costs of special services provided to an Owner, Home or Lot or cost relating to enforcement of the provisions of this Declaration or the architectural provisions hereof as it relates to a particular Owner, Home or Lot. In the event an Owner fails to maintain the exterior of his or her Home or Lot (other than those portions of a Home or Lot maintained by Association) or a waterway or slope or bank in a manner satisfactory to Association, Association shall have the right, through its agents and employees, to enter upon the Home or Lot and to repair, restore, and maintain the Home or Lot as required by this Declaration. Such entrance shall not be deemed a trespass. The cost thereof, plus the reasonable administrative expenses of Association, shall be an Individual Assessment.

16.2. Association Option. Notwithstanding the foregoing, Association may require that an Owner (or all Owners) of Homes or Lots pay Installment Assessments on a monthly or other basis based on prior payment history or other financial concerns, in Association's sole discretion.

16.3. Designation. The designation of Assessment type shall be made by Association. Prior to the Community Completion Date, any such designation must be approved by Declarant. Such designation may be made on the budget prepared by Association. The designation shall be binding upon all Owners.

16.4. Allocation of Association Expenses.

16.4.1. For the period until the adoption of the first annual budget, the allocation of Association Expenses shall be as set forth in the initial budget prepared by Declarant.

16.4.2. Commencing on the first day of the period covered by the annual budget, and until the adoption of the next annual budget, the Installment Assessments shall be allocated so that each Owner shall pay his pro rata portion of Installment Assessments, Special Assessments, and Reserves.

16.4.3. In the event Association Expenses as estimated in the budget for a particular fiscal year are, after the actual Association Expenses for that period is known, less than the actual costs, then the difference shall, at the election of Association: (i) be added to the calculation of Installment Assessments for the next ensuing fiscal year; or (ii) be immediately collected from the Owners as a Special Assessment. Association shall have the unequivocal right to specially assess Owners retroactively on January 1st of any year for any shortfall in Installment Assessments, which Special Assessment shall relate back to the date that the Installment Assessments could have been made. No vote of the Owners shall be required for such Special Assessment (or for any other Assessment except to the extent specifically provided herein. All surplus funds, if any, shall be applied to reduce Association Expenses.

16.4.4. Each Owner agrees that so long as it does not pay more than the required amount it shall have no grounds upon which to object to either the method of payment or non-payment by other Owners of any sums due.

16.5. General Assessments Allocation. Except as hereinafter specified to the contrary, Installment Assessments, Special Assessments and Reserves shall be allocated equally to each Owner. Each Owner shall be assessed for each Lot purchased. In the event an Owner purchases more than one Lot, which are then consolidated into one (1) Lot, such Owner shall be assessed based on the original number of Lots (i) purchased from Declarant or (ii) consolidated into one (1) Lot, if an Owner purchases a consolidated Lot from Declarant, which ultimately comprises the final consolidated Lot. By way of example and not of limitation, if an Owner purchases two (2) Lots from Declarant for the purpose of building one (1) Home, the Assessments paid by such Owner shall be based on two (2) Lots.

16.6. Use Fees and Individual Assessment. Except as hereinafter specified to the contrary, Use Fees and Individual Assessments shall be made against the Owners benefiting from, or subject to the special service or cost as specified by Association.

16.7. Commencement of First Assessment. Assessments shall commence as to each Owner on the day of the conveyance of title of each Home or each Lot to an Owner.

16.8. Shortfalls and Surpluses. Each Owner acknowledges that because Installment Assessments, Special Assessments, and Reserves are allocated based on the formula provided herein, or upon the number of Homes or Lots conveyed to Owners on or prior to September 30 of the prior fiscal year, it is possible that Association may collect more or less than the amount budgeted for Association Expenses. Prior to the Community Completion Date, Declarant shall have the option to (i) fund all or any portion of the shortfall in Installment Assessments not raised by virtue of income receivable by Association or (ii) to pay Installment Assessments on Homes or Lots owned by Declarant. Declarant shall never be required to fund shortfalls in Installment Assessments or pay Special Assessments or Reserves. Any surplus Assessments collected by Association may be allocated towards the next year's Association Expenses or, in Association's sole and absolute

discretion, to the creation of Reserves, whether or not budgeted. Under no circumstances shall Association be required to pay surplus Assessments to Owners.

16.9. Budgets. The initial budget prepared by Declarant is adopted as the budget for the period of operation until adoption of the first annual Association Budget and is not a contractual statement or guaranty of actual expenses. Thereafter, annual budgets shall be prepared and adopted by Association. THE INITIAL BUDGET OF ASSOCIATION IS PROJECTED AND BASED ON GOOD FAITH ANALYSIS (NOT BASED ON HISTORICAL OPERATING FIGURES). THEREFORE, IT IS POSSIBLE THAT ACTUAL ASSESSMENTS MAY BE LESSER OR GREATER THAN PROJECTED. Budgets do not take into account inflation. Because there is no history of operation, it is impossible to predict actual expenses once Association begins operation. It is not intended that you rely on any budget in electing to purchase a Home or Lot. Projections in the initial budget are an effort to provide some information regarding future operating costs.

16.10. Establishment of Assessments. Assessments shall be established in accordance with the following procedures:

16.10.1. Installment Assessments shall be established by the adoption of a twelve (12) month operating budget by the Board. The budget shall be in the form required by Section 617.303(6) of the Florida Statutes, as amended from time to time. Written notice of the amount and date of commencement thereof shall be given to each Owner not less than ten (10) days in advance of the due date of the first installment thereof. Notwithstanding the foregoing, the budget may cover a period of less than twelve (12) months if the first budget is adopted mid-year or in order to change the fiscal year of Association.

16.10.2. Special Assessments and Individual Assessments against the Owners may be established by Association, from time to time, and shall be payable at such time or time(s) as determined. Until the Community Completion Date, no Special Assessment shall be imposed without the consent of Declarant.

16.10.3. Association may establish, from time to time, by resolution, rule or regulation, or by delegation to an officer or agent, including, a professional management company, Use Fees. The sums established shall be payable by the Owner utilizing the service or facility as determined by Association.

16.11. Association Initial Expense Fund. Association has established a capital fund for the operation of Association (the "Association Initial Expense Fund"). There shall be collected from each Owner that purchases a Home or Lot from Declarant at the time of conveyance of each Home or Lot an amount equal to two (2) months Assessments. Each Owner's share of Association Initial Expense Fund shall be transferred to Association immediately after the closing of the Home or Lot. The Association Initial Expense Fund shall be used to reduce the deficit that might otherwise be funded by Declarant or for any other purposes deemed appropriate by Declarant and/or Association. Without

limiting the foregoing, no portion of the Association Initial Expense Fund shall be used for the payment of legal fees or litigation expenses. To the extent of any deficiencies in the Community Property, Association shall use the Association Initial Expense Fund to remedy such deficiencies before making any claim against Declarant. Moreover, the total amount of such funds and interest accrued thereon, if any, shall be a set-off against any amounts payable by Declarant to Association. Amounts paid into the Association Initial Expense Fund are not to be considered as advance payment of Assessments and may be used by Association for any purpose whatsoever. Notwithstanding anything herein to the contrary, Declarant shall have the option to waive contributions to the Association Initial Expense Fund.

16.12. Assessment Estoppel Certificates. No Owner shall sell or convey its interest in a Home or Lot unless all sums due Association have been paid in full and an estoppel certificate in recordable form shall have been received by such Owner. Association shall prepare and maintain a ledger noting Assessments due from each Owner. The ledger shall be kept in the office of Association, or its designees, and shall be open to inspection by any Owner. Within ten (10) days of a written request therefor, there shall be furnished to an Owner an estoppel certificate in writing setting forth whether the assessments have been paid and/or the amount which is due as of any date. As to parties other than Owners who, without knowledge of error, rely on the certificate, the certificate shall be conclusive evidence of the amount of any Assessment therein stated. The Owner requesting the estoppel certificate shall be required to pay Association a reasonable sum to cover the costs of examining records and preparing such estoppel certificate. Each Owner waives its rights (if any) to an accounting related to Association Expenses or Assessments.

16.13. Payment of Home or Lot Real Estate Taxes. Each Owner shall pay all taxes and obligations relating to its Home or Lot which, if not paid, could become a lien against the Home or Lot superior to the lien for Assessments created by this Declaration.

16.14. Creation of the Lien and Personal Obligation. Each Owner, by acceptance of a deed or instrument of conveyance for the acquisition of title to a Home or Lot, shall be deemed to have covenanted and agreed that the Assessments, and/or other charges and fees set forth herein, together with interest, late fees, costs and reasonable attorneys' fees and paraprofessional fees at all levels of proceedings including appeals, collections and bankruptcy, shall be a charge and continuing lien in favor of Association encumbering the Home or Lot and all personal property located thereon owned by the Owner against whom each such Assessment is made. The lien is effective from and after recording a Claim of Lien in the Public Records stating the legal description of the Home or Lot, name of the Owner, and the amounts due as of that date, but shall relate back to the date that this Declaration is recorded. The Claim of Lien shall also cover any additional amounts which accrue thereafter until satisfied. Each Assessment, together with interest, late fees, costs and reasonable attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy, and other costs and expenses provided for herein, shall be the personal obligation of the person who was the Owner of the Home or Lot at the time when the Assessment became due, as well as the Owner's heirs, devisees, personal representatives, successors or assigns.

16.15. Subordination of the Lien to Mortgages. The lien for Assessments shall be subordinate to a bona fide first mortgage held by a Lender on any Home or Lot, if the mortgage is recorded in the Public Records prior to the Claim of Lien. The lien for Assessments shall not be affected by any sale or transfer of a Home or Lot, except in the event of a sale or transfer of a Home or Lot pursuant to a foreclosure (or deed in lieu of foreclosure) of a bona fide first mortgage held by a Lender, in which event, the acquirer of title, its successors and assigns, shall not be liable for such sums secured by lien for Assessments encumbering the Home or Lot or chargeable to the former Owner of the Home or Lot, which became due prior to such sale or transfer. However, any such unpaid Assessments for which such acquirer of title is not liable may be reallocated and assessed to all Owners (including such acquirer of title) as a part of Association Expenses included within Installment Assessments. Any sale or transfer pursuant to a foreclosure (or deed in lieu of foreclosure or otherwise) shall not relieve the Owner from liability for, nor the Home or Lot from the lien of any Assessments made thereafter. Nothing herein contained shall be construed as releasing the party liable for any delinquent Assessments from the payment thereof, or the enforcement of collection by means other than foreclosure. A Lender shall give written notice to Association if the mortgage held by such Lender is in default. Association shall have the right, but not the obligation, to cure such default within the time periods applicable to Owner. In the event Association makes such payment on behalf of an Owner, Association shall, in addition to all other rights reserved herein, be subrogated to all of the rights of the Lender. All amounts advances on behalf of an Owner pursuant to this Section shall be added to Association payable by such Owner with appropriate interest.

16.16. Acceleration. In the event of a default in the payment of any Assessment, Association may accelerate the Assessments then due for up to the next ensuing twelve (12) month period.

16.17. Non-Payment of Assessments. If any Assessment is not paid within fifteen (15) days (or such other period of time established by the Board) after the due date, a late fee of \$25.00 per month (or such greater amount established by the Board), together with interest in an amount equal to the maximum rate allowable by law (or such lesser rate established by the Board), per annum, beginning from the due date until paid in full, may be levied. The late fee shall compensate Association for administrative costs, loss of use of money, and accounting expenses. Association may, at any time thereafter, bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Home or Lot, or both. Association shall not be required to bring such an action if it believes that the best interests of Association would not be served by doing so. There shall be added to the Assessment all costs expended in preserving the priority of the lien and all costs and expenses of collection, including attorneys' fees and paraprofessional fees, at all levels of proceedings, including appeals, collection and bankruptcy. No Owner may waive or otherwise escape liability for Assessments provided for herein by non-use of, or the waiver of the right to use the Community Property or by abandonment of a Home or Lot.

16.18. Exemption. Notwithstanding anything to the contrary herein, neither Declarant nor any Home, Lot or property owned by Declarant shall (unless specified to the contrary by Declarant in a separate written instrument) be responsible for any Assessments of any nature or any portion of

Association Expenses. Declarant, at Declarant's sole option, may pay Assessments on Homes or Lots owned by it. In addition, the Board shall have the right to exempt any portion of The Cove subject to this Declaration from the Assessments, provided that such part of The Cove exempted is used (and as long as it is used) for any of the following purposes:

- 16.18.1. Any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;
- 16.18.2. Any real property interest held by a Telecommunications Provider;
- 16.18.3. Community Property;
- 16.18.4. Any of The Cove exempted from ad valorem taxation by the laws of the State of Florida;
- 16.18.5. Any easement or other interest dedicated or conveyed to not-for-profit corporations for the use and benefit of residents of which The Cove is a part.

16.19. Collection by Declarant. If for any reason Association shall fail or be unable to levy or collect Assessments, then in that event, Declarant shall at all times have the right, but not the obligation: (i) to advance such sums as a loan to Association to bear interest and to be repaid as hereinafter set forth; and/or (ii) to levy and collect such Assessments by using the remedies available as set forth above, which remedies; including, but not limited to, recovery of attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy, shall be deemed assigned to Declarant for such purposes. If Declarant advances sums, it shall be entitled to immediate reimbursement, on demand, from Association for such amounts so paid, plus interest thereon at the Wall Street Journal Prime Rate plus two percent (2%), plus any costs of collection including, but not limited to, reasonable attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy.

16.20. Rights to Pay Assessments and Receive Reimbursement. Association, Declarant, and any Lender of a Home or Lot shall have the right, but not the obligation, jointly and severally, and at their sole option, to pay any Assessments or other charges which are in default and which may or have become a lien or charge against any Home or Lot. If so paid, the party paying the same shall be subrogated to the enforcement rights of Association with regard to the amounts due.

16.21. Mortgagee Right. Each Lender may request in writing that Association notify such Lender of any default of the Owner of the Home or Lot subject to the Lender's Mortgage under the Community Documents which default is not cured within thirty (30) days after Association learns of such default. A failure by Association to furnish notice to any Lender shall not result in liability of Association because such notice is given as a courtesy to a Lender and the furnishing of such notice is not an obligation of Association to Lender.

17. Information to Lenders and Owners.

17.1. Availability. There shall be available for inspections upon request, during normal business hours or under other reasonable circumstances, to Owners and Lenders current copies of the Community Documents.

17.2. Copying. Any Owner and/or Lender shall be entitled, upon written request, and at its cost, to a copy of the Community Documents.

17.3. Notice. Upon written request by a Lender (identifying the name and address of the Lender and the name and address of the applicable Owner), the Lender will be entitled to timely written notice of:

17.3.1. Any condemnation loss or casualty loss which affects a material portion of a Home to the extent Association is notified of the same;

17.3.2. Any delinquency in the payment of Assessments Dues owed by an Owner of a Home subject to a first mortgage held by the Lender, which remains uncured for a period of sixty (60) days;

17.3.3. Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained hereunder;

17.3.4. Any proposed action (if any) which would require the consent of a specific mortgage holder.

18. Architectural Control.

18.1. Architectural Review Committee. The ARC shall be a permanent committee of Association and shall administer and perform the architectural and landscape review and control functions relating to The Cove. The ARC shall consist of a minimum of three (3) members who shall initially be named by Declarant and who shall hold office at the pleasure of Declarant. One of the members of the ARC may be a paid consultant, *i.e.* an architect, at Declarant's option. Until the Community Completion Date, Declarant shall have the right to change the number of members on the ARC, and to appoint, remove, and replace all members of the ARC. Declarant shall determine which members of the ARC shall serve as its chairman and co-chairman. In the event of the failure, refusal, or inability to act of any of the members appointed by Declarant, Declarant shall have the right to replace any member within thirty (30) days of such occurrence. If Declarant fails to replace that member, the remaining members of the ARC shall fill the vacancy by appointment. From and after the Community Completion Date, the Board shall have the same rights as Declarant with respect to the ARC.

18.2. Membership. There is no requirement that any member of the ARC be an Owner or a member of Association.

18.3. General Plan. It is the intent of this Declaration to create a general plan and scheme of development of The Cove. Accordingly, the ARC shall have the right to approve or disapprove all architectural, landscaping, and improvements within The Cove by Owners other than Declarant. The ARC shall have the right to evaluate all plans and specifications as to harmony of exterior design, landscaping, location of any proposed improvements, relationship to surrounding structures, topography and conformity with such other reasonable requirements as shall be adopted by ARC. The ARC may impose standards for construction and development which may be greater or more stringent than standards prescribed in applicable building, zoning, or other local governmental codes. Prior to the Community Completion Date, any additional standards or modification of existing standards shall require the consent of Declarant, which may be granted or denied in its sole discretion.

18.4. Development Plan. Declarant has established an overall Development Plan. However, notwithstanding the above, or any other document, brochures or plans, Declarant reserves the right to modify the Development Plan or any site plan at any time as it deems desirable in its sole discretion and in accordance with applicable laws and ordinances. WITHOUT LIMITING THE FOREGOING, DECLARANT MAY PRESENT TO THE PUBLIC OR TO OWNERS RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS RESPECTING THE COVE. SUCH RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS ARE NOT A GUARANTEE OF HOW THE COVE WILL APPEAR UPON COMPLETION AND DECLARANT RESERVES THE RIGHT TO CHANGE ANY AND ALL OF THE FOREGOING AT ANY TIME AS DECLARANT DEEMS NECESSARY IN ITS SOLE AND ABSOLUTE DISCRETION.

18.5. Architectural Review Requirements. Each Owner and its contractors and employees shall observe, and comply with, the Architectural Review Requirements which now or may hereafter be promulgated by the ARC and approved by the Board from time to time. The Architectural Review Requirements shall be effective from the date of adoption; shall be specifically enforceable by injunction or otherwise; and shall have the effect of covenants as set forth herein. The Architectural Review Requirements shall not require any Owner to alter the improvements previously constructed. Until the Community Completion Date, Declarant shall have the right to approve the Architectural Review Requirements, which approval, may be granted in its sole discretion.

18.6. Quorum. A majority of the ARC shall constitute a quorum to transact business at any meeting. The action of a majority present at a meeting at which a quorum is present shall constitute the action of the ARC. In lieu of a meeting, the ARC may act in writing.

18.7. Power and Duties of the ARC. No improvements shall be constructed on a Lot, no exterior of a Home shall be repainted, no landscaping, sign, or improvements erected, removed, planted, or maintained on a Lot, nor shall any material addition to or any change, replacement, or



alteration of the improvements as originally constructed by Declarant (visible from the exterior of the Home) be made until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, color scheme, and the location of same shall have been submitted to and approved in writing by the ARC. The ARC shall also have the right to retain and pay outside consultants.

18.8. Procedure. In order to obtain the approval of the ARC, each Owner shall observe the following:

18.8.1. Each applicant shall submit an application to the ARC with respect to any proposed improvement or material change in an improvement, together with the required application(s) and other fee(s) as established by the ARC. The applications shall include such information as may be required by the application form adopted by the ARC. The ARC may also require submission of samples of building materials and colors proposed to be used. At the time of such submissions, the applicant shall, if requested, submit to the ARC, such site plans, plans and specifications for the proposed improvement, prepared and stamped by a registered Florida architect or residential designer, and landscaping and irrigation plans, prepared by a registered landscape architect or designer showing all existing trees and major vegetation stands and surface water drainage plan showing existing and proposed design grades, contours relating to the predetermined ground floor finish elevation, pool plans and specifications and the times scheduled for completion, all as reasonably specified by the ARC.

18.8.2. In the event the information submitted to the ARC is, in the ARC's opinion, incomplete or insufficient in any manner, the ARC may request and require the submission of additional or supplemental information. The Owner shall, within fifteen (15) days thereafter, comply with the request.

18.8.3. No later than thirty (30) days after receipt of all information required by the ARC for final review, the ARC shall approve or deny the application in writing. The ARC shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in the ARC's sole discretion, for aesthetic or any other reasons or to impose qualifications and conditions thereon. In approving or disapproving such plans and specifications, the ARC shall consider the suitability of the proposed improvements, the materials of which the improvements are to be built, the site upon which the improvements are proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property. In the event the ARC fails to respond within said thirty (30) day period, the plans and specifications shall be deemed disapproved by the ARC.

18.8.4. Construction of all improvements shall be completed within the time period set forth in the application and approved by the ARC.

18.8.5. In the event that the ARC disapproves any plans and specifications, the applicant may request a rehearing by the ARC for additional review of the disapproved plans and

specifications. The meeting shall take place no later than thirty (30) days after written request for such meeting is received by the ARC, unless applicant waives this time requirement in writing. The ARC shall make a final written decision no later than thirty (30) days after such meeting. In the event the ARC fails to provide such written decision within said thirty (30) days, the plans and specifications shall be deemed disapproved.

18.8.6. Upon final disapproval (even if the members of the Board and ARC are the same), the applicant may appeal the decision of the ARC to the Board within thirty (30) days of the ARC's written review and disapproval. Review by the Board shall take place no later than thirty (30) days subsequent to the receipt by the Board of the Owner's request therefor. If the Board fails to hold such a meeting within thirty (30) days after receipt of request for such meeting, then the plans and specifications shall be deemed approved. The Board shall make a final decision no later than sixty (60) days after such meeting. In the event the Board fails to provide such written decision within such sixty (60) days after such meeting, such plans and specifications shall be deemed approved. The decision of the ARC, or if appealed, the Board, shall be final and binding upon the applicant, its heirs, legal representatives, successors and assigns.

18.9. Alterations. Any and all alterations, deletions, additions and changes of any type or nature whatsoever to then existing improvements or the plans or specifications previously approved by the ARC shall be subject to the approval of the ARC in the same manner as required for approval of original plans and specifications.

18.10. Variances. Association or ARC shall have the power to grant variances from any requirements set forth in this Declaration or from the Architectural Review Requirements, on a case by case basis, provided that the variance sought is reasonable and results from a hardship upon the applicant. The granting of a variance shall not nullify or otherwise affect the right to require strict compliance with the requirements set forth herein or in the Architectural Review Requirements on any other occasion.

18.11. Permits. The Owner is solely responsible to obtain all required building and other permits from all governmental authorities having jurisdiction.

18.12. Construction by Owners. The following provisions govern construction activities by Owners after consent of the ARC has been obtained:

18.12.1. Each Owner shall deliver to the ARC copies of all construction and building permits as and when received by the Owner. Each construction site in The Cove shall be maintained in a neat and orderly condition throughout construction. Construction activities shall be performed on a diligent, work manlike and continuous basis. Roadways, waterways, drainage area, easements, swales, Community Property and other such areas in The Cove shall be kept clear of construction vehicles, construction materials and debris at all times. Except as provided in Section 20.1 herein, no construction office or trailer shall be kept in The Cove and no construction materials

shall be stored in The Cove subject, however, to such conditions and requirements as may be promulgated by the ARC. All refuse and debris shall be removed or deposited in a dumpster on a daily basis. No materials shall be deposited or permitted to be deposited in the waterway or Community Property or other Homes in The Cove or be placed anywhere outside of the Home upon which the construction is taking place. No hazardous waste or toxic materials shall be stored, handled and used, including, without limitation, gasoline and petroleum products, except in compliance with all applicable federal, state and local statutes, regulations and ordinances, and shall not be deposited in any manner on, in or within the construction or adjacent property or waterways. All construction activities shall comply with the Architectural Review Requirements. If a contractor or Owner shall fail in any regard to comply with the requirements of this Section, the ARC may require that such Owners or contractor to post security with Association in such form and amount deemed appropriate by the ARC in its sole discretion.

18.12.2. There shall be provided to the ARC a list (name, address, telephone number, and identity of contact person), of all contractors, subcontractors, materialmen, and suppliers (collectively, "Contractors") and changes to the list as they occur relating to construction. Each builder and all of its employees and Contractors and their employees shall utilize those roadways and entrances into The Cove as are designated by the ARC for construction activities. The ARC shall have the right to require that each builder's and Contractor's employees check in at the designated construction entrances and to refuse entrance to persons and parties whose names are not registered with the ARC.

18.12.3. Each Owner is responsible for insuring compliance with all terms and conditions of these provisions and of the Architectural Review Requirements by all of its employees and contractors. In the event of any violation of any such terms or conditions by any employee or contractor, or, in the opinion of the ARC, the continued refusal of any employee or contractor to comply with such terms and conditions, after five (5) days notice and right to cure, the ARC shall have, in addition to the other rights hereunder, the right to prohibit the violating employee or contractor from performing any further services in The Cove.

18.12.4. When the physical construction of any Home is started, such construction shall be performed diligently and completed within a reasonable time. If for any reason a Home is not completed within one (1) year from the commencement of construction, as determined by Declarant or the ARC, then Declarant or the ARC may, in its sole and absolute discretion, after ten (10) days notice to the Owner of the Home, enter the Home and take such steps as necessary to correct any undesirable condition. The Owner of the Home will be charged for the costs thereof as an Individual Assessments.

18.12.5. If during any construction activity on a Home, or at any other time, any of the Community Property is damaged or destroyed, including without limitation, any street lights, sidewalks, landscaping or street signs located thereon, the Owner of such Home shall be liable for all costs incurred in repairing or replacing such Community Property and the total costs thereof shall be

assessed against the Owner as an Individual Assessment. Association reserves the right to collect from Owners or Contractors a security deposit that may be applied to repair damages to the Community Property which might occur during the construction of a Home.

18.12.6. The ARC may, from time to time, adopt standards governing the performance or conduct of Owners, Contractors and their respective employees within The Cove. Each Owner and contractor shall comply with such standards and cause its respective employees to also comply with same. The ARC may also promulgate requirements to be inserted in all contracts relating to construction within The Cove and each Owner shall include the same therein.

18.13. Inspection. There is specifically reserved to Association and ARC and to any agent or member of either of them, the right of entry and inspection upon any portion of The Cove for the purpose of determination whether there exists any violation of the terms of any approval or the terms of this Declaration or the Architectural Review Requirements.

18.14. Violation. If any improvement shall be constructed or altered without prior written approval, or in a manner which fails to conform with the approval granted, the Owner shall, upon demand of Association or the ARC, cause such improvement to be removed, or restored until approval is obtained or in order to comply with the plans and specifications originally approved. The Owner shall be liable for the payment of all costs of removal or restoration, including all costs and attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy, incurred by Association or ARC. The costs shall be deemed an Individual Assessment and enforceable pursuant to the provisions of this Declaration. The ARC and/or Association is specifically empowered to enforce the architectural and landscaping provisions of this Declaration and the Architectural Review Requirements, by any legal or equitable remedy.

18.15. Court Costs. In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed improvement or to cause the removal of any unapproved improvement, Association and/or ARC shall be entitled to recover court costs, expenses and attorneys' fees and paraprofessional fees at all levels, including appeals, collections and bankruptcy, in connection therewith.

18.16. Certificate. In the event that any Owner fails to comply with the provisions contained herein, the Architectural Review Requirements, or other rules and regulations promulgated by the Association and/or ARC may, in addition to all other remedies contained herein, record a Certificate of Non-Compliance against the Home stating that the improvements on the Home fail to meet the requirements of this Declaration and that the Home is subject to further enforcement remedies.

18.17. Certificate of Compliance. Prior to the occupancy of any improvement constructed or erected on any Home by other than Declarant, or its designees, the Owner thereof shall obtain a Certificate of Compliance from the ARC, certifying that the Owner has complied with the

requirements set forth herein. The ARC may, from time to time, delegate to a member or members of the ARC, the responsibility for issuing the Certificate of Compliance.

18.18. Exemption. Notwithstanding anything to the contrary contained herein, or in the Architectural Review Requirements, any improvements of any nature made or to be made by Declarant, or their nominees, including, without limitation, improvements made or to be made to the Community Property or any Home, shall not be subject to the review of the ARC, Association, or the provisions of the Architectural Review Requirements.

18.19 Exculpation. Declarant, Association, the directors or officers of Association, the ARC, the members of the ARC, or any person acting on behalf of any of them, shall not be liable for any cost or damages incurred by any Owner or any other party whatsoever, due to any mistakes in judgment, negligence, or any action of Declarant, Association, ARC or their members, officers, or directors, in connection with the approval or disapproval of plans and specifications. Each Owner agrees, individually and on behalf of its heirs, successors and assigns by acquiring title to a Home, that it shall not bring any action or suit against Declarant, Association or their respective directors or officers, the ARC or the members of the ARC, or their respective agents, in order to recover any damages caused by the actions of Declarant, Association, or ARC or their respective members, officers, or directors in connection with the provisions of this Section. Association does hereby indemnify, defend and hold Declarant and the ARC, and each of their members, officers, and directors harmless from all costs, expenses, and liabilities, including attorneys' fees and paraprofessional fees at all levels, including appeals, of all nature resulting by virtue of the acts of the Owners, Association, ARC or their members, officers and directors. Declarant, Association, its directors or officers, the ARC or its members, or any person acting on behalf of any of them, shall not be responsible for any defects in any plans or specifications or the failure of same to comply with applicable laws or code nor for the safety soundness, structure or any defects in any improvements constructed pursuant thereto; it being expressly understood that the ARC review and approval process is instituted for aesthetic purposes only. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof and for the quality of construction performed pursuant thereto. By way of example, and not of limitation, the approval of hurricane shutters shall not be deemed an endorsement or guarantee of the effectiveness of such hurricane shutters.

19. Owners Liability.

19.1. Right to Cure. Should any Owner do any of the following:

19.1.1. Fail to perform its responsibilities as set forth herein or otherwise breach the provisions of the Declaration; or

19.1.2. Cause any damage to any improvement or Community Property or Mangrove;

or

19.1.3. Impede Declarant or Association from exercising its rights or performing its responsibilities hereunder, including obligations under the Permits; or

19.1.4. Undertake unauthorized improvements or modifications to a Home, the Community Property or;

19.1.5. Impede Declarant from proceeding with or completing the development of The Cove.

Then Declarant and/or Association, where applicable, after reasonable prior written notice, shall have the right, through its agents and employees, to cure the breach, including, but not limited to, the entering upon the Home and/or Lot and causing the default to be remedied and/or the required repairs or maintenance to be performed, or as the case may be, remove unauthorized improvements or modifications. The cost thereof, plus reasonable overhead costs and attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy, incurred shall be assessed against the Owner as an Individual Assessment.

19.2. Non-Monetary Defaults. In the event of a violation by any Owner, other than the nonpayment of any Assessment or other monies, of any of the provisions of this Declaration, Declarant or Association shall notify the Owner of the violation, by written notice. If such violation is not cured as soon as practicable and in any event within seven (7) days after such written notice, the party entitled to enforce same may, at its option:

19.2.1. Commence an action to enforce the performance on the part of the Owner or to enjoin the violation or breach or for equitable relief as may be necessary under the circumstances, including injunctive relief; and/or

19.2.2. Commence an action to recover damages; and/or

19.2.3. Take any and all action reasonably necessary to correct the violation or breach.

All expenses incurred in connection with the violation or breach, or the commencement of any action against any Owner, including reasonable attorneys' fees and paraprofessional fees at all levels including appeals, collections and bankruptcy, shall be assessed against the Owner, as an Individual Assessment, and shall be immediately due and payable without further notice.

19.3. No Waiver. The failure to enforce any right, provision, covenant or condition in this Declaration, shall not constitute a waiver of the right to enforce such right, provision, covenant or condition in the future.

19.4. Rights Cumulative. All rights, remedies, and privileges granted to Declarant, Association, and/or the ARC pursuant to any terms, provisions, covenants or conditions of this

Declaration, or Architectural Review Requirements, shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude any of them from pursuing such additional remedies, rights or privileges as may be granted or as it might have by law.

19.5. Enforcement By or Against Other Persons. In addition to the foregoing, this Declaration or Architectural Review Requirements may be enforced by Declarant and/or, where applicable, Association by any procedure at law or in equity against any person violating or attempting to violate any provision herein, to restrain such violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce this Declaration or Architectural Review Requirements shall be borne by the person against whom enforcement is sought, provided such proceeding result in a finding that such person was in violation of this Declaration or the Architectural Review Requirements. In the event such proceedings result in a finding that such person was not in violation of this Declaration or the Architectural Review Requirements, the expense of litigation shall be borne by the Association and treated as a Special Assessment.

19.6. Fines. Except to the extent prohibited by law, in the event of a violation of the provisions contained herein by an Owner or a person acting by, through, or under an Owner, the Rules and Regulations, the Architectural Review Requirements, or other rules and regulations promulgated by the ARC, Association shall also have the right to levy reasonable fines or suspend the privileges of the Owner or any person acting by, through, or under an Owner. Each fine shall be an Individual Assessment and enforceable pursuant to the provisions of this Declaration and the By-Laws. Each day of an Owner's failure to comply with this Declaration, the Rules and Regulations, the Architectural Review Requirements, or other rules and regulations promulgated by the ARC shall be treated as a separate violation and be subject to a separate fine. The decisions of Association shall be final. Fines shall be in such reasonable and uniform amounts, as Association shall determine. Suspensions and fines shall be imposed in the manner provided in Section 617.305 of the Florida Statutes, as amended from time to time. The Board shall have the authority to promulgate additional procedures from time to time.

20. Additional Rights of Declarant.

20.1. Sales Office and Administrative Offices. Declarant shall have the perpetual right to take such action reasonably necessary to transact any business necessary to consummate the development of The Cove and sales and re-sales of Homes and/or other properties owned by Declarant or others outside of The Cove. This right shall include, but not be limited to, the right to locate a construction trailer, maintain models, sales offices and parking associated therewith, have signs on any portion of The Cove, including Community Property, employees in the models and offices, without the payment of rent or any other fee, maintain offices in models, and use of the Community Property to show Homes. The sales office and signs and all items pertaining to development and sales remain the

property of Declarant. Declarant shall have all of the foregoing rights without charge or expense. The rights reserved hereunder shall extend beyond the Community Completion Date.

20.2. Modification. The development and marketing of The Cove will continue as deemed appropriate in Declarant's sole discretion, and nothing in this Declaration or Architectural Review Requirements, or otherwise, shall be construed to limit or restrict such development and marketing. It may be necessary or convenient for the development of The Cove to, as an example and not a limitation, amend a Plat and/or the Development Plan, modify the boundary lines of the Community Property, grant easements, dedications, agreements, licenses, restrictions, reservations, covenants, rights-of-way, and to take such other actions which Declarant, or its agents, affiliates, or assignees may deem necessary or appropriate. Association, Owners and their lenders shall, at the request of Declarant, execute and deliver any and all documents and instruments, which Declarant deems necessary or convenient, in its sole and absolute discretion, to accomplish the same.

20.3. Promotional Events. Prior to the Community Completion Date, Declarant shall have the right, at any time, to hold marketing, special and/or promotional events within The Cove and/or on the Community Property, without any charge for use. Declarant, its agents, affiliates, or assignees shall have the right to market The Cove and Homes in advertisements and other media by making reference to The Cove, including, but not limited to, pictures or drawings of The Cove, Community Property, Lots and Homes constructed in The Cove. All names, logos, trademarks, and designs used in connection with The Cove are the property of Declarant and Association shall have no right to use the same after the Community Completion Date except with the express written permission of Declarant.

20.4. Use by Prospective Purchasers. Prior to the Community Completion Date, Declarant shall have the right, without charge, to use the Community Property for the purpose of entertaining prospective purchasers of Homes, or other properties owned by Declarant outside of The Cove.

20.5. Franchises. Declarant may grant franchises or concessions to commercial concerns on all or part of the Community Property and shall be entitled to all income derived therefrom.

20.6. Management. Prior to the conveyance of the Community Property to Association, Association shall manage the Community Property for Declarant at Association's sole cost and expense. After the conveyance of the Community Property to Association, Association shall manage the Community Property for Association at its sole cost and expense. Association shall have the right at all times to contract with a management company to manage the Community Property.

20.7. Easements. Until the Community Completion Date, Declarant reserves the exclusive right to grant, in its sole discretion, easements, permits and/or licenses for ingress and egress, drainage, utilities service, maintenance, Telecommunications Services; and other purposes over, upon, under, and across The Cove so long as any said easements do not materially and adversely interfere with the intended use of Homes previously conveyed to Owners. By way of example, and not of limitation,



Declarant may be required to take certain action, or make additions or modifications to the Community Property in connection with an environmental program. All easements necessary for such purposes are reserved in favor of Declarant, in perpetuity, for such purposes. Without limiting the foregoing, Declarant may relocate any easement affecting a Home, or grant new easements over a Home, after conveyance to an Owner, without the joinder or consent of such Owner, so long as the grant of easement or relocation of easement does not materially and adversely affect the Owner's use of the Home as a residence. As an illustration, Declarant may grant an easement for Telecommunications Systems, irrigation, drainage lines or electrical lines over any portion of a Lot so long as such easement is outside the footprint of the foundation of any residential improvement constructed on such Lot. Declarant shall have the sole right to any fees of any nature associated therewith, including, but not limited to, license or similar fees on account thereof. Association and Owners will, without charge, if requested by Declarant: (a) join in the creation of such easements, etc. and cooperate in the operation thereof; and (b) collect and remit fees associated therewith, if any, to the appropriate party. Association will not grant any easements, permits or licenses to any other entity providing the same services as those granted by Declarant, nor will it grant any such easement, permit or license prior to the Community Completion Date without the prior written consent of Declarant which may be granted or denied in its sole discretion.

20.8. Right to Enforce. Declarant has the right, but not the obligation, to enforce the provisions of this Declaration and the Architectural Review Requirements. The prevailing party is entitled to recover all costs relating thereto, including attorneys' fees and paraprofessional fees at all levels of proceeding, including appeals, collections and bankruptcy. Such right shall include the right of Declarant to perform the obligations of Association and to recover all costs incurred in doing so.

20.9. Additional Development. If Declarant withdraws portions of The Cove from the operation of this Declaration, Declarant may, but is not required to, subject to governmental approvals, create other forms of residential property ownership or other improvements of any nature on the property not subjected to or withdrawn from the operation of this Declaration. Declarant shall not be liable or responsible to any person or entity on account of its decision to do so or to provide, or fail to provide, the amenities and/or facilities, which were originally planned to be included in such areas. If so designated by Declarant, owners or tenants of such other forms of housing or improvements upon their creation, may share in the use of all or some of the Community Property and other facilities and/or roadways, which remain subject to this Declaration. The expense of the operation of such facilities shall be allocated to the various users thereof, if at all, as determined by Declarant.

20.10. Representations. Declarant makes no representations concerning development within or outside the boundaries of The Cove including, but not limited to, the number, design, boundaries, configuration and arrangements, prices of all Lots or Homes and buildings in all other proposed forms of ownership and/or other improvements on The Cove or in The Cove or adjacent or near The Cove, including, but not limited to, the size, location, configuration, elevations, design, building materials, height, view, airspace, number of homes, number of Lots, location of easements, parking and

landscaped areas, services and amenities offered other than any representations or contractual obligations set forth in a purchase and sale agreement respecting a Home.

20.11. Duration of Rights. The rights of Declarant set forth in this Declaration shall, unless specifically provided to the contrary herein, extend for a period of time ending upon the earlier of: (i) when neither Declarant nor any affiliate of Declarant has any further interest of any kind in The Cove; or (ii) a relinquishment by Declarant in an amendment to the Declaration placed in the Public Records.

21. Telecommunications Services.

21.1. Right to Contract for Telecommunications Services. Association shall have the right, but not the obligation, to enter into one or more contracts for the provision of one or more Telecommunications Services for all or any part of The Cove. Prior to the Community Completion Date, all contracts between a Telecommunications Provider and Association shall be subject to the prior written approval of Declarant. Declarant and/or its nominees, successors, assigns, affiliates, and licensees may contract with Association and act as a Telecommunications Provider for one or more Telecommunications Services, subject only to the requirements of all applicable laws, statutes, and regulations. If Declarant is not the Telecommunications Provider for any particular Telecommunications Service, Declarant shall have the right to receive, on a perpetual basis, all or a portion of access fees and/or the revenues derived from such Telecommunications Service within The Cove as agreed, from time to time, between the Telecommunications Provider and Declarant.

21.2. Easements. Declarant (i) reserves unto itself and its nominees, successors, assigns, affiliates, and licensees, and (ii) grants to each Telecommunications Provider providing Telecommunications Services to all or a part of The Cove pursuant to an agreement between Association and such Telecommunications Provider, a perpetual right, privilege, easement and right-of-way across, over, under and upon The Cove for the installation, construction and maintenance of Telecommunications Systems together with a perpetual right, privilege and easement of ingress and egress, access, over and upon The Cove for installing, constructing, inspecting, maintaining, altering, moving, improving and replacing facilities and equipment constituting such systems. If, and to the extent, Telecommunications Services provided by such Telecommunications Systems are to serve all of The Cove, then the cost of the Telecommunication Services may be Association Expenses of Association and shall be assessed as a part of the Assessments.

21.3. Restoration. Upon the completion of any installation, upgrade, maintenance, repair, or removal of the Telecommunications Systems or any part thereof, each Telecommunications Provider shall restore the relevant portion of the Community Property and/or any Home to as good a condition as that which existed prior to such installation, maintenance, repair or removal. Failure by Telecommunications Provider to complete such restoration within ten (10) days after receiving written notice from Association of such failure shall vest in Association the right (but not the obligation) to restore or cause to be restored such portion of the Community Property and/or Home disturbed by such

work, all at such Telecommunications Provider's sole cost and expense, except for in emergency situations whereby Association may restore or cause to be restored such disturbed portion of the Community Property and/or Home immediately. In the event that Association exercises the right of self-help, each Telecommunications Provider agrees in advance that Association shall have the sole right to (i) select the contractors to perform such work and (ii) determine the extent of required restoration. This remedy of self-help is in addition to all other remedies of Association hereunder. All reasonable expenses incurred by Association in connection with such restoration shall be paid by Telecommunications Provider within ten (10) days of delivery to Telecommunications Provider of Association's invoice therefor. Any expenses not so paid when due shall bear interest from the due date at the lesser of (i) the publicly announced prime rate (or similar successor reference rate) of the Wall Street Journal on the date of such invoice, or (ii) the maximum rate of interest allowed by the law of the State of Florida for such obligations, or as provided in any agreement between a Telecommunications Provider and Association.

22. Non-Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE COMMUNITY DOCUMENTS, ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE COVE INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, TENANTS, GUESTS, LESSEES, LICENSEES, INVITEES, AGENTS, SERVANTS, CONTRACTORS, AND/OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

22.1.1. IT IS THE EXPRESS INTENT OF THE COMMUNITY DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE COVE HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE COVE AND THE VALUE THEREOF; AND

22.1.2. ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN AGENCY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE STATE OF FLORIDA AND/OR PALM BEACH COUNTY OR PREVENTS TORTIOUS ACTIVITIES; AND

22.1.3. THE PROVISIONS OF THE COMMUNITY DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY, AND WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY, OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO A HOME) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING A USE OF, ANY PORTION OF THE COVE (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USE) SHALL BE BOUND BY THIS SECTION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF ASSOCIATION HAS BEEN DISCLAIMED IN THIS SECTION OR OTHERWISE. AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES, SUBCONTRACTORS, SUCCESSORS AND ASSIGNS).

23. Resolution of Disputes. BY ACCEPTANCE OF A DEED, EACH OWNER AGREES THAT THE COMMUNITY DOCUMENTS ARE VERY COMPLEX; THEREFORE, ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION, WITH RESPECT TO ANY ACTION, PROCEEDING, CLAIM, COUNTERCLAIM, OR CROSS CLAIM, WHETHER IN CONTRACT AND/OR IN TORT (REGARDLESS IF THE TORT ACTION IS PRESENTLY RECOGNIZED OR NOT), BASED ON, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY RELATED TO THE COMMUNITY DOCUMENTS, INCLUDING ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT, VALIDATION, PROTECTION, ENFORCEMENT ACTION OR OMISSION OF ANY PARTY SHOULD BE HEARD IN A COURT PROCEEDING BY A JUDGE AND NOT A JURY IN ORDER TO BEST SERVE JUSTICE. DECLARANT HEREBY SUGGESTS THAT EACH OWNER UNDERSTAND THE LEGAL CONSEQUENCES OF ACCEPTING A DEED TO A HOME.

24. Venue. EACH OWNER ACKNOWLEDGES REGARDLESS OF WHERE SUCH OWNER (i) EXECUTED A PURCHASE AND SALE AGREEMENT, (ii) RESIDES, (iii) OBTAINS FINANCING OR (iv) CLOSED ON A HOME, THIS DECLARATION LEGALLY AND FACTUALLY WAS EXECUTED IN PALM BEACH COUNTY, FLORIDA. DECLARANT HAS AN OFFICE IN PALM BEACH COUNTY, FLORIDA AND EACH HOME IS LOCATED IN PALM BEACH COUNTY, FLORIDA. ACCORDINGLY, AN IRREBUTTABLE PRESUMPTION EXISTS THAT THE ONLY APPROPRIATE VENUE FOR THE RESOLUTION OF ANY DISPUTE LIES IN PALM BEACH COUNTY, FLORIDA. IN ADDITION TO THE FOREGOING, EACH OWNER AND DECLARANT AGREE THAT THE VENUE FOR RESOLUTION OF ANY DISPUTE LIES IN PALM BEACH COUNTY, FLORIDA.

25. Reliance. BEFORE ACCEPTING A DEED TO A HOME, EACH OWNER HAS AN OBLIGATION TO RETAIN AN ATTORNEY IN ORDER TO CONFIRM THE VALIDITY OF THIS DECLARATION. BY ACCEPTANCE OF A DEED TO A HOME, EACH OWNER ACKNOWLEDGES THAT HE HAS SOUGHT AND RECEIVED SUCH AN OPINION OR HAS MADE AN AFFIRMATIVE DECISION NOT TO SEEK SUCH AN OPINION. DECLARANT IS

RELYING ON EACH OWNER CONFIRMING IN ADVANCE OF ACQUIRING A HOME THAT THIS DECLARATION IS VALID, FAIR AND ENFORCEABLE. SUCH RELIANCE IS DETRIMENTAL TO DECLARANT. ACCORDINGLY, AN ESTOPPEL AND WAIVER EXISTS PROHIBITING EACH OWNER FROM TAKING THE POSITION THAT ANY PROVISION OF THIS DECLARATION IS INVALID IN ANY RESPECT. AS A FURTHER MATERIAL INDUCEMENT FOR DECLARANT TO SUBJECT THE COVE TO THIS DECLARATION, EACH OWNER DOES HEREBY RELEASE, WAIVE, DISCHARGE, COVENANT NOT TO SUE, ACQUIT, SATISFY AND FOREVER DISCHARGE DECLARANT, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS AND ITS AFFILIATES AND ASSIGNS FROM ANY AND ALL LIABILITY, CLAIMS, COUNTERCLAIMS, DEFENSES, ACTIONS, CAUSES OF ACTION, SUITS, CONTROVERSIES, AGREEMENTS, PROMISES AND DEMANDS WHATSOEVER IN LAW OR IN EQUITY WHICH AN OWNER MAY HAVE IN THE FUTURE, OR WHICH ANY PERSONAL REPRESENTATIVE, SUCCESSOR, HEIR OR ASSIGN OF OWNER HEREAFTER CAN, SHALL OR MAY HAVE AGAINST DECLARANT, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS, AND ITS AFFILIATES AND ASSIGNS, FOR, UPON OR BY REASON OF ANY MATTER, CAUSE OR THING WHATSOEVER RESPECTING THIS DECLARATION, OR THE EXHIBITS HERETO. THIS RELEASE AND WAIVER IS INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY THE LAWS OF THE STATE OF FLORIDA.

26. Access Control Program.

26.1. Right to Install. Association shall have the right, but not the obligation, to install and/or contract for the installation of an Access Control Program for The Cove. Declarant or its nominees, successors, assigns, affiliates, and licensees may install such an Access Control Program. Declarant reserves the right, at any time and in its sole discretion, to discontinue or terminate any Access Control Program prior to the Community Completion Date. Association and Declarant shall not be held liable for any loss or damage by reason or failure to provide adequate access control or ineffectiveness of access control measures undertaken. ASSOCIATION AND DECLARANT SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE ACCESS CONTROL OR INEFFECTIVENESS OF ACCESS CONTROL MEASURES UNDERTAKEN.

26.2. Components. The Access Control Program, if installed, may include one or more electronic gates. Association and Declarant do not warrant or guaranty in any manner that the system will include these items, but reserve the right to install or provide the foregoing items, or any other items they deem appropriate in their sole and absolute discretion. After the Community Completion Date, Association may expand the Access Control Program by a vote of the majority of the Board, without the joinder or consent of the Owners or any third parties. Without limiting the foregoing, Declarant and Association reserve the right to, at any time, increase, decrease, eliminate, or add other access monitoring measures as they deem appropriate in their sole and absolute discretion; provided,

however, no changes shall be made prior to the Community Completion Date without the prior written consent of Declarant.

26.3. Part of Association Expenses. The cost of operating and monitoring any Access Control Program may be included in Association Expenses and may be payable as a portion of the Assessments against Owners. The purpose of the Access Control Program will be to control access to The Cove.

26.4. Owners' Responsibility. All Owners and occupants of any Home, and the tenants, guests and invitees of any Owner, as applicable, acknowledge that Association, its Board and officers, Declarant, their nominees or assigns, or any successor Declarant, and the ARC and its members, do not represent or warrant that (a) any Access Control Program, designated by or installed according to guidelines established, will not be compromised or circumvented, (b) any Access Control Program will prevent loss by fire, smoke, burglary, theft, hold-up, bodily injury or harm or otherwise, and/or (c) the Access Control Program will in all cases provide the detection for which the system is designed or intended. In the event that Declarant elects to provide a Access Control Program, Declarant shall not be liable to the Owners or Association with respect to such Access Control Program, and the Owners and Association shall not make any claim against Declarant for any loss that an Owner or Association may incur by reason of break-ins, burglaries, acts of vandalism, personal injury or death, which are not detected or prevented by the Access Control Program. Each Owner and Association are responsible for protecting and insuring themselves in connection with such acts or incidents. The provision of an Access Control Program shall in no manner constitute a warranty or representation as to the provision of or level of security within The Cove or any residential subdivision contained therein. Neither Declarant nor Association guarantees or warrants, expressly or by implication, the merchantability of fitness for use of any community Access Control Program, or that any such system (or any of its components or related services) will prevent intrusions, fires, or other occurrences, regardless of whether or not the Access Control Program is designed to monitor the same. Each and every Owner and the occupant of each Home acknowledges that Declarant and Association, their employees, agents, managers, directors, and officers, are not insurers of Owners or Homes, or the personal property located within Homes. Declarant and Association will not be responsible or liable for losses, injuries, or deaths resulting from any such events.

27. Construction Activities. ALL OWNERS, OCCUPANTS AND USERS OF THE COVE ARE HEREBY PLACED ON NOTICE THAT DECLARANT AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES WILL BE, FROM TIME TO TIME, CONDUCTING BLASTING, EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO THE COVE. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF THE COVE, EACH SUCH OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (ii) NOT

TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO THE COVE WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii) DECLARANT AND THE OTHER AFORESAID RELATED PARTIES SHALL NOT BE LIABLE FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, EXCEPT RESULTING DIRECTLY FROM DECLARANT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND (iv) ANY PURCHASE OR USE OF ANY PORTION OF THE COVE HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING.

28. Refund of Taxes and Other Charges. Unless otherwise provided herein, Association agrees that any taxes, fees or other charges paid by Declarant to any governmental authority, utility company or any other entity which at a later date are refunded in whole or in part, shall be returned to Declarant in the event such refund is received by Association.

29. Assignment of Powers. All or any part of the rights, exemptions and powers and reservations of Declarant herein contained may be conveyed or assigned in whole or part to other persons or entities by an instrument in writing duly executed, acknowledged, and recorded in the Public Records.

30. Amendment.

30.1. General Restrictions on Amendments. Notwithstanding any other provision herein to the contrary, no amendment to this Declaration shall adversely affect the rights of Declarant unless such amendment receives the prior written consent of Declarant, which may be withheld for any reason whatsoever. No amendment shall alter the provisions of this Declaration benefiting Lenders without the prior approval of the Lender(s) enjoying the benefit of such provisions.

30.2. Amendments Prior to the Turnover Date. Prior to the Turnover Date, Declarant shall have the right to amend this Declaration as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Such amendments may include, without limitation, the creation of easements for Telecommunications Systems, utility, drainage, ingress and egress and roof overhangs over any portion of The Cove; additions or deletions from the properties comprising the Community Property; changes in the Rules and Regulations, and modifications of restrictions on the Homes, and maintenance standards for landscaping. Declarant's right to amend under this provision is to be construed as broadly as possible. By way of example, and not as a limitation, Declarant may create easements over Homes conveyed to Owners provided that such easements do not prohibit the use of such Homes as residences. In the event that Association shall desire to amend this Declaration prior to the Turnover Date, Association must first obtain Declarant's prior written consent to any proposed amendment. Thereafter, an amendment identical to that approved by Declarant may be adopted by

Association pursuant to the requirements for amendments from and after the Turnover Date. Thereafter, Declarant shall join in such identical amendment so that its consent to the same will be reflected in the Public Records.

30.3. Amendments After the Turnover Date. After the Turnover Date, but subject to the general restrictions on amendments set forth above, this Declaration may be amended with the approval of (i) seventy-five percent (75%) of the Board; and (ii) seventy-five percent (75%) of all of the votes in Association.

31. Annexation and Withdrawal.

31.1. Annexation by Declarant. Prior to the Turnover Date, additional lands may be made part of The Cove by Declarant. Except for applicable governmental approvals (if any), no consent to such annexation shall be required from any other party (including, but not limited to, Association, Owners or any Lenders of any Home). Such annexed lands shall be brought within the provisions and applicability of this Declaration by the recording of an amendment to this Declaration in the Public Records. The amendment shall subject the annexed lands to the covenants, conditions, and restrictions contained in this Declaration as fully as though the annexed lands were described herein as a portion of The Cove. Such amendment may contain additions to, or modifications of, the covenants, conditions, and restrictions contained in this Declaration as deemed appropriate by Declarant and as may be necessary to reflect the different character, if any, of the annexed lands. Prior to the Turnover Date, only Declarant may add additional lands to The Cove.

31.2. Annexation by Association. After the Turnover Date, and subject to applicable governmental approvals (if any), additional lands may be annexed with the approval of (i) seventy-five percent (75%) of the Board; and (ii) seventy-five percent (75%) of all of the votes in Association.

31.3. Withdrawal. Prior to the Turnover Date, any portions of The Cove (or any additions thereto) may be withdrawn by Declarant from the provisions and applicability of this Declaration by the recording of an amendment to this Declaration in the Public Records. The right of Declarant to withdraw portions of The Cove shall not apply to any Home which has been conveyed to an Owner unless that right is specifically reserved in the instrument of conveyance or the prior written consent of the Owner is obtained. The withdrawal of any portion of The Cove shall not require the consent or joinder of any other party (including, but not limited to, Association, Owners, or any Lenders of any Home). Association shall have no right to withdraw land from The Cove.

31.4. Annexation into Jupiter. The Cove subdivision may be annexed into the Town of Jupiter. Prior to receiving the certificate of occupancy for the first Home to be constructed in The Cove, Declarant shall execute an agreement for voluntary annexation into the Town of Jupiter. Such annexation shall occur at the discretion of the Town of Jupiter.



32. Dissolution.

32.1. Generally. In the event of the dissolution of Association without reinstatement within thirty (30) days, other than incident to a merger or consolidation, any Owner may petition the Circuit Court of the appropriate Judicial Circuit of the State of Florida for the appointment of a receiver to manage the affairs of the dissolved Association and to manage the Community Property in the place and stead of Association, and to make of such provisions as may be necessary for the continued management of the affairs of the dissolved Association.

32.2. Applicability of Declaration after Dissolution. In the event of dissolution of Association, The Cove and each Home therein shall continue to be subject to the provisions of this Declaration, including, without limitation, the provisions respecting Assessments specified in this Declaration. Each Owner shall continue to be personally obligated to the successors or assigns of Association, for Assessments to the extent that Assessments are required to enable the successors or assigns of Association to properly maintain, operate and preserve the Community Property. The provisions of this Section shall only apply with regard to the maintenance, operation, and preservation of those portions of The Cove which had been Community Property and continue to be so used for the common use and enjoyment of the Owners.

33. General Provisions.

33.1. Authority of Board. Except when a vote of the membership of Association is specifically required, all decisions, duties, and obligations of Association hereunder may be made by the Board. Association and Owners shall be bound thereby.

33.2. Severability. Invalidation of any of the provisions of this Declaration by judgment or court order shall in no way affect any other provision, and the remainder of this Declaration shall remain in full force and effect.

33.3. Execution of Documents. Declarant's Plan of Development for The Cove may necessitate from time to time the execution of certain documents as required by governmental agencies. To the extent that said documents require the joinder of Owners other than Declarant, Declarant, by its duly authorized officers, may, as the agent or the attorney-in-fact for the Owners, execute, acknowledge and deliver such documents (including, without limitation, any consents or other documents required by any governmental agencies in connection with the creation of any special taxing district); and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint Declarant, through its duly authorized officers, as their proper and legal attorney-in-fact, for such purpose. Said appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section may recite that it is made pursuant to this Section.

33.4. Notices. Any notice required to be sent to any person, firm, or entity under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address at the time of such mailing.

33.5. Florida Statutes. Whenever this Declaration refers to the Florida Statutes, it shall be deemed to refer to the Florida Statutes, as they exist on the date this Declaration is recorded except to the extent provided otherwise as to any particular provision of the Florida Statutes.

33.6. Title Documents. Except as otherwise provided by law, each Owner by acceptance of a deed to a Home or Lot acknowledges that such Home or Lot may be subject to certain documents and amendments thereto recorded in the Public Records of Palm Beach County, Florida (collectively, the "Title Documents"). Declarant's plan of development for The Cove may necessitate from time to time the further amendment, modification and/or termination of the Title Documents. **DECLARANT RESERVES THE UNCONDITIONAL RIGHT TO SEEK AMENDMENTS AND MODIFICATIONS OF THE TITLE DOCUMENTS.** It is possible that a governmental subdivision or agency may require the execution of one or more documents in connection with an amendment, modification, and/or termination of the Title Documents. To the extent that such documents require the joinder of Owners other than Declarant, Owners shall either execute such joinder within ten (10) days of the request of Declarant, or Declarant, by any one of its duly authorized officers, may, as the agent and/or the attorney-in-fact for the Owners, execute, acknowledge and deliver any documents required by applicable governmental subdivision or agency; and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint Declarant, through any one of its duly authorized officers, as their proper and legal attorney-in-fact for such purpose. This appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section may recite that it is made pursuant to this Section. Notwithstanding the foregoing, each Owner agrees, by its acceptance of a deed to a Home:

33.6.1. to execute or otherwise join in any documents required in connection with the amendment, modification, or termination of the Title Documents; and

33.6.2. that such Owner has waived his right to object to or comment the form or substance of any amendment, modification, or termination of the Title Documents.

Without limiting the foregoing, upon the Community Completion Date, Association shall assume all of the obligations of Declarant under the Title Documents unless otherwise provided by Declarant by amendment to this Declaration recorded by Declarant in the Public Records, from time to time, and in the sole and absolute discretion of Declarant.

(signature page follows)

IN WITNESS WHEREOF, the undersigned, being Declarant hereunder, has hereunto set its hand and seal on the date written below.

WITNESSES:

By: GAETA LIMITED PARTNERSHIP #2,  
A Florida limited partnership

Print Name: Tygal Roberts

By: 

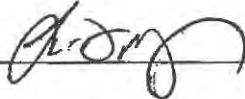
Print Name: Janette M. Giaschi

Name: Neil J. Gaeta  
Title: The Managing Member of GAETA  
LLC #2, the General Partner of GAETA  
Limited Partnership #2

Dated: DECEMBER 11, 2001

LOUIS A. GAETA, Jr., an individual

Print Name: Tygal Robert

By: 

Print Name: Janette M. Giaschi

Dated: 12/11/01

NEIL J. GAETA, an individual

Print Name: Tygal Roberts

By: 

Print Name: Janette M. Giaschi

Dated: DECEMBER 11, 2001

GARY T. NICKLAUS, an individual

Print Name: Tygal Roberts

By: [Signature]

Print Name: Janette M. Diaschi

Dated: 12/14/01

MICHAEL S. NICKLAUS, an individual

Print Name: Tygal Roberts

By: Michael S. Nicklaus

Print Name: Janette M. Diaschi

Dated: 12/12/2001

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 12, 14 day of December, 2001 by Neil J. Gaeta, The Managing Member of GAETA LLC #2, the General Partner of GAETA Limited Partnership #2, a Florida limited partnership, and Louis A. Gaeta, Jr., an individual, and Neil J. Gaeta, and individual, and Gary T. Nicklaus, an individual, and Michael S. Nicklaus, an individual, who are personally known to me.

My commission expires: [Signature]

NOTARY PUBLIC, State of Florida

Print name: \_\_\_\_\_



**JOINDER  
OF  
THE COVE OWNERS' ASSOCIATION, INC.**

THE COVE OWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation, does hereby join in the document to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title. This Joinder is for convenience only, and not a requirement of any document, or a condition precedent to the effectiveness of the document to which it is attached.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 11<sup>th</sup> day of December 2001.

**WITNESSES:**

**THE COVE OWNERS' ASSOCIATION,  
INC., a Florida not-for-profit corporation**

Print Name: Tyler Robert

By: [Signature]

Name: Neil J. Gaeta

Title: President

Print Name: Janette M. Diaschi

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 11 day of December, 2001 by Neil J. Gaeta as President of THE COVE OWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation, who is personally known to me or who produced \_\_\_\_\_ as identification, on behalf of the corporation.

My commission expires:

[Signature]

NOTARY PUBLIC, State of Florida

Print name: \_\_\_\_\_



**CONSENT OF MORTGAGEE  
FIDELITY FEDERAL BANK & TRUST**

KNOWN ALL MEN BY THESE PRESENTS:

FIDELITY FEDERAL BANK & TRUST, the holder of that certain Mortgage Deed and Security Agreement dated as of August 18, 2000 and recorded in Official Records Book 12387 at Page 974 in the Public Records of Palm Beach County, Florida (the "Mortgage"), which Mortgage constitutes a lien upon the real property described in the foregoing The Cove Declaration (the "Declaration"), hereby consents to GAETA Limited Partnership #2, a Florida limited partnership ("GLP"), subjecting the lands described therein to the provisions of the Declaration and agrees that the lien and encumbrance of the Mortgage shall be subordinate to the Declaration.

The subordination set forth herein is limited strictly to the rights of GLP, its successors and assigns, created by the Declaration and this subordination shall not constitute a subordination to the rights of any other person or entity that holds any interest in the real property described in the Declaration.

Dated this 12<sup>th</sup> day of DECEMBER 2001.

WITNESSES:

FIDELITY FEDERAL BANK & TRUST

Print Name: Troy Robert

By: [Signature]  
Name: STEVEN L. ERSSA  
Title: VICE-PRESIDENT

Print Name: Janette M. Diaschi

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 12 day of December, 2001 by Steven Erssa as Vice-president of FIDELITY FEDERAL BANK & TRUST, who is personally known to me or who produced \_\_\_\_\_ as identification.

My commission expires:

[Signature]

NOTARY PUBLIC, State of Florida

Print name: \_\_\_\_\_







FLORIDA DEPARTMENT OF STATE  
Katherine Harris  
Secretary of State

August 31, 2001

CSC NETWORKS  
1201 HAYS ST  
TALLAHASSEE, FL 32301

The Articles of Incorporation for THE COVE OWNERS' ASSOCIATION, INC. were filed on August 23, 2001 and assigned document number N01000006255. Please refer to this number whenever corresponding with this office regarding the above corporation.

PLEASE NOTE: COMPLIANCE WITH THE FOLLOWING PROCEDURES IS ESSENTIAL TO MAINTAINING YOUR CORPORATE STATUS. FAILURE TO DO SO MAY RESULT IN DISSOLUTION OF YOUR CORPORATION.

A CORPORATION ANNUAL REPORT/UNIFORM BUSINESS REPORT MUST BE FILED WITH THIS OFFICE BETWEEN JANUARY 1 AND MAY 1 OF EACH YEAR BEGINNING WITH THE CALENDAR YEAR FOLLOWING THE YEAR OF THE FILING DATE NOTED ABOVE AND EACH YEAR THEREAFTER. FAILURE TO FILE THE ANNUAL REPORT/UNIFORM BUSINESS REPORT ON TIME MAY RESULT IN ADMINISTRATIVE DISSOLUTION OF YOUR CORPORATION.

A FEDERAL EMPLOYER IDENTIFICATION (FEI) NUMBER MUST BE SHOWN ON THE ANNUAL REPORT/UNIFORM BUSINESS REPORT FORM PRIOR TO ITS FILING WITH THIS OFFICE. CONTACT THE INTERNAL REVENUE SERVICE TO INSURE THAT YOU RECEIVE THE FEI NUMBER IN TIME TO FILE THE ANNUAL REPORT/UNIFORM BUSINESS REPORT. TO OBTAIN A FEI NUMBER, CONTACT THE IRS AT 1-800-829-3676 AND REQUEST FORM SS-4.

SHOULD YOUR CORPORATE MAILING ADDRESS CHANGE, YOU MUST NOTIFY THIS OFFICE IN WRITING, TO INSURE IMPORTANT MAILINGS SUCH AS THE ANNUAL REPORT/UNIFORM BUSINESS REPORT NOTICES REACH YOU.

Should you have any questions regarding corporations, please contact this office at the address given below.

Pamela Smith, Document Specialist  
New Filings Section

Letter Number: 201A00049682

Account number: 072100000032

Amount charged: 70.00



FILED

ARTICLES OF INCORPORATION  
OF  
THE COVE OWNERS' ASSOCIATION, INC.  
(A CORPORATION NOT FOR PROFIT)

01 AUG 23 PM 1:36  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

In compliance with the requirements on the Laws of the State of Florida, and for the purpose of forming a corporation not for profit, the undersigned does hereby acknowledge:

1. Name of Corporation. The name of the corporation is THE COVE OWNERS' ASSOCIATION, INC.
2. Principal Office. The initial principal office of Association is 3555 Northlake Boulevard, Palm Beach Gardens, Florida 33403.
3. Registered Office – Registered Agent. The street address of the Registered Office of Association is 3555 Northlake Boulevard, Palm Beach Gardens, Florida 33403. The name of the Registered Agent of Association is:

NEIL J. GAETA

4. Definitions. A declaration entitled The Cove Declaration (the "Declaration") will be recorded in the Public Records of Palm Beach County, Florida, and shall govern all of the operations of a community to be known as The Cove. All initially capitalized terms not defined herein shall have the meanings set forth in the Declaration.
5. Purpose of Association. Association is formed to: (a) provide for ownership, operation, maintenance and preservation of the Community Property and improvements thereon; (b) perform the duties delegated to it in the Declaration; (c) administer the interests of Association and the Owners; and (d) promote the health, safety and welfare of the Owners.
6. Not for Profit. Association is a not for profit Florida corporation and does not contemplate pecuniary gain to, or profit for, its members.
7. Powers of Association. Association shall, subject to the limitations and reservations set forth in the Declaration, have all the powers, privileges and duties reasonably necessary to discharge its obligations, including, but not limited to, the following:
  - 7.1. To perform all the duties and obligations of Association set forth in the Declaration, these Articles, and the By-Laws.
  - 7.2. To enforce, by legal action or otherwise, the provisions of the Declaration, these Articles, and the By-Laws and the rules, regulations, covenants, restrictions and/or agreements governing or binding Association and The Cove.
  - 7.3. To operation and maintain the portion of the Surface Water Management System, if any, and if required, contained within the Community Property as required by the Declaration.
  - 7.4. To fix, levy, collect and enforce payment, by any lawful means, of all Assessments payable pursuant to the terms of the Declaration, these Articles, and the By-Laws.

7.5. To pay all Association Expenses including, but not limited to, all licenses, taxes or governmental charges levied or imposed against the Community Property, or other property of Association.

7.6. To operate and maintain portions of the Community Property in compliance with all governmental permits.

7.7. To acquire (by gift, purchase, or otherwise), annex, own, hold, improve, build upon, operate, maintain, convey, grant rights and easements, sell, dedicate, lease, transfer or otherwise dispose of real or personal property (including the Community Property) in connection with the functions of Association except as limited by the Declaration.

7.8. To borrow money, and to mortgage, pledge or hypothecate any or all of its real or personal property as security for money or debts incurred.

7.9. To dedicate, grant, license, lease, create easements upon, sell or transfer all or any part of, the Community Property to any public agency, entity, authority, utility, or other person or entity for such purposes and subject to such conditions as it determines subject only to requirements in the Declaration, if any.

7.10. To participate in mergers and consolidations with other non-profit corporations organized for the same purposes.

7.11. To adopt, publish, promulgate or enforce rules, regulations, covenants, restrictions, or agreements governing Association, The Cove, the Community Property, and Homes as provided in the Declaration and to effectuate all of the purposes for which Association is organized.

7.12. To have and to exercise any and all powers, rights and privileges, which a not for profit corporation organized under the Laws of the State of Florida, may now, or hereafter, have or exercise.

7.13. To employ personnel and retain independent contractors to contract for management of Association, The Cove, and Community Property as provided in the Declaration, including, without limitation, a Facility Manager, and to delegate in such contract all or any part of the powers and duties of Association.

7.14. To contract for services to be provided to, or for the benefit of, Association, Owners, the Community Property, and The Cove as provided in the Declaration such as, but not limited to, Telecommunications Services, maintenance, garbage pick-up, and utility services. The foregoing rights shall not be deemed to impose any obligation on Association to provide such services.

7.15. To establish committees and delegate certain of its functions to those committees.

7.16. To enter into agreements and/or contracts with governmental agencies under which Association shall perform certain maintenance, management and/or other agreed upon services with respect to The Cove.

8. Voting Rights. Owners and Declarant shall have the voting rights set forth in the By-Laws.

9. Board of Directors. The affairs of Association shall be managed by a Board of odd number with not less than three (3) nor more than five (5) members. The initial number of directors shall be three (3). Board members shall be appointed and/or elected as stated in the By-Laws. The election of Directors

shall be held at the Annual Members Meeting. Directors shall be elected for a term expiring on the date of the next annual meeting. The names and addresses of the members of the first Board who shall hold office until their successors are appointed or elected, or until removed, are as follows:

NAME	ADDRESS
Neil J. Gaeta	3555 Northlake Boulevard, Palm Beach Gardens, Florida 33403
Louis A. Gaeta, Jr.	3555 Northlake Boulevard, Palm Beach Gardens, Florida 33403
Arline R. Trezza	3555 Northlake Boulevard, Palm Beach Gardens, Florida 33403

10. Dissolution. In the event of the dissolution of Association other than incident to a merger or consolidation, any Owner may petition the Circuit Court having jurisdiction over The Cove for the appointment of a receiver to manage the affairs of the dissolved Association and to manage the Community Property, in the place and stead of Association, and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association and its properties.

11. Duration. Association shall have perpetual existence.

12. Amendments.

12.1. General Restrictions on Amendments. Notwithstanding any other provision herein to the contrary, no amendment to these Articles shall affect the rights of Declarant unless such amendment receives the prior written consent of Declarant or which may be withheld for any reason whatsoever. No amendment shall be effective until it is recorded in the Public Records.

12.2. Amendments Prior to the Turnover Date. Prior to the Turnover Date, Declarant shall have the right to amend these Articles, as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Declarant's right to amend under this Section is to be construed as broadly as possible. In the event that Association shall desire to amend these Articles prior to the Turnover Date, Association must first obtain Declarant's prior written consent to any proposed amendment. After receiving the Declarant's consent to the proposed amendment, an amendment identical to that approved by Declarant may be adopted by Association pursuant to the requirements for amendments from and after the Turnover Date set forth in Section 12.3 hereof. After approval of the amendment by the Board as provided in Section 12.3, Declarant shall join in such identical amendment so that its consent to the same will be reflected in the Public Records.

12.3. Amendments After the Turnover Date. After the Turnover Date, but subject to the general restrictions on amendments set forth above, these Articles may be amended with the approval of seventy-five percent (75%) of the Board.

13. Limitations.

13.1. Declarations is Paramount. No amendment may be made to these Articles which shall in any manner reduce, amend, affect or modify the terms, conditions, provisions, rights and obligations set forth in the Declaration.

13.2. Rights of Declarant. There shall be no amendment to these Articles, which shall abridge, reduce, amend, effect or modify the rights of Declarant.

13.3. By-Laws. These Articles shall not be amended in a manner that conflicts with the By-Laws.

14. Incorporator. The name and address of the Incorporator of this corporation is:

Neil J. Gaeta 3555 Northlake Boulevard, Palm Beach Gardens, Florida 33403

15. Officers. The Board shall elect a President, Secretary, Treasurer, and as many Vice Presidents, Assistant Secretaries, and Assistant Treasurers as the Board shall from time to time determine. The names and addresses of the Officers who shall serve until their successors are elected by the Board are as follows:

President/Secretary/Treasurer: Neil J. Gaeta

Vice President: Louis A. Gaeta, Jr.

16. Indemnification of Officers and Directors. Association shall and does hereby indemnify and hold harmless every Director and every Officer, their heirs, executors and administrators, against all loss, cost and expenses reasonably incurred in connection with any action, suit or proceeding to which such Director or Officer may be made a party by reason of being or having been a Director or Officer of Association, including reasonable counsel fees and paraprofessional fees at all levels of proceeding. This indemnification shall not apply to matters wherein the Director or Officer shall be finally adjudged in such action, suit or proceeding to be liable for or guilty of gross negligence or willful misconduct. The foregoing rights shall be in addition to, and not exclusive of, all other rights to which such Director or Officers may be entitled.

17. Transactions in Which Directors or Officers are Interested. No contract or transaction between Association and one (1) or more of its Directors or Officers or Declarant or between Association and any other corporation, partnership, association, or other organization in which one (1) or more of its Officers or Directors are officers, directors or employees or otherwise interested shall be invalid, void or voidable solely for this reason, or solely because the Officer or Director is present at, or participates in, meetings of the Board thereof which authorized the contract or transaction, or solely because said Officers' or Directors' votes are counted for such purpose. No Director or Officer of Association shall incur liability by reason of the fact that such Director or Officer may be interested in any such contract or transaction. Interested Directors shall disclose the general nature of their interest and may be counted in determining the presence of a quorum at a meeting of the Board, which authorized the contract or transaction.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the Laws of the State of Florida, the undersigned, being the Incorporator of this Association, has executed these Articles of Incorporation as of this 16<sup>th</sup> day of August 2001.

WITNESSES:

Brian K. Waxman

Print Name: Brian K. Waxman

Robert J. Sample

Print Name: Robert J. Sample

Neil J. Gaeta  
Neil J. Gaeta, Incorporator

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 16 day of August, 2001 by Neil J. Gaeta who is personally known to me.

My commission expires:

Brian K. Waxman  
NOTARY PUBLIC, State of Florida at Large

Print Name:



FILED

ACCEPTANCE BY REGISTERED AGENT 01 AUG 23 PM 1:36

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

I, having been named to accept service of process for the above-stated corporation at the place designated in this certificate, hereby agree to act in this capacity, and I am familiar with, and accept, the obligations of this position and further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties.

Dated this 16<sup>TH</sup> day of AUGUST, 2001.

  
\_\_\_\_\_  
NEIL J. GAETA



**EXHIBIT 3  
BY-LAWS**



**BY-LAWS  
OF  
THE COVE HOMEOWNERS' ASSOCIATION, INC.**

1. Name and Location. The name of the corporation is THE COVE OWNERS' ASSOCIATION, INC. ("Association"). The principal office of the corporation shall be located at 3555 Northlake Boulevard, Palm Beach Gardens, Florida 33403.

2. Definitions. The definitions contained in The Cove Declaration ("Declaration") relating to the residential community known as The Cove, recorded, or to be recorded, in the Public Records of Palm Beach County, Florida, are incorporated herein by reference and made a part hereof. In addition to the terms defined in the Declaration, the following terms shall have the meanings set forth below:

"Annual Members Meeting" shall have the meaning assigned to such term in Section 3.2 of these By-Laws.

"By-Laws" shall mean these By-Laws as amended from time to time.

"Member" shall mean each Owner and Declarant.

"Minutes" shall mean the minutes of all Member and Board meetings, which shall be in the form required by the Florida Statutes. In the absence of governing Florida Statutes, the Board shall determine the form of the Minutes.

"Official Records" shall mean all records required to be maintained by Association pursuant to Section 617.303(4) of the Florida Statutes, as amended from time to time.

"Turnover Date" shall mean, unless turned over sooner by Declarant in its sole discretion, three (3) months after the date upon which ninety percent (90%) of the Homes which will ultimately be built or Lots within The Cove have been conveyed by Declarant to Owners.

"Voting Interests" shall mean the voting rights held by the Members.

3. Members.

3.1. Voting Interests. Each Owner and Declarant shall be a Member of Association. No person who holds an interest in a Home only as security for the performance of an obligation shall be a Member of Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Home. There shall be one vote appurtenant to each Home. Prior to the Turnover Date, Declarant shall have Voting Interests equal to one (1) plus the total number of votes held by all other Members. For the purposes of determining who may exercise the Voting Interest associated with each Home, the following rules shall govern:

3.1.1. Home Owned by Husband and Wife. Either the husband or wife (but not both) may exercise the Voting Interest with respect to a Home. In the event the husband and wife cannot agree, neither may exercise the Voting Interest.

3.1.2. Trusts. In the event that any trust owns a home, Association shall have no obligation to review the trust agreement with respect to such trust. Association shall be governed by the following examples with respect to the trusts:

- (a) If the Home is owned by Robert Smith, as Trustee, Robert Smith shall be deemed the Member of the Home for all Association purposes.
- (b) If the Home is owned by Robert Smith as Trustee for the Laura Jones Trust, then Robert Smith shall be deemed the Member with respect to the Home for all Association purposes.
- (c) If the Home is owned by the Laura Jones Trust, and the deed does not reference a trustee, then Laura Jones shall be deemed the Member with respect to the Home for all Association purposes.
- (d) If the Home is owned by the Jones Family Trust, the Jones Family Trust may not exercise its Voting Interest unless it presents to Association, in the form of an attorney opinion letter or affidavit reasonably acceptable to Association, the identification of the person who should be treated as the Member with respect to the Home for all Association purposes.
- (e) If Robert Smith and Laura Jones, as Trustees, hold title to a Home, either trustee may exercise the Voting Interest associated with such Home in the absence of a designation signed by both trustees that only one such trustee is authorized to vote. In the event of a conflict between trustees, the Voting Interest for the Home in question cannot be exercised. In the event that any other form of trust ownership is presented to Association, the decision of the Board as to who may exercise the Voting Interest with respect to any Home shall be final. Association shall have no obligation to obtain an attorney opinion letter in making its decision, which may be made on any reasonable basis whatsoever.

3.1.3. Corporations. If a Home is owned by a corporation, the president or vice-president of the corporation shall designate a person, who may be an officer, employee, or agent, who shall be treated as the Member who can exercise the Voting Interest associated with such Home.

3.1.4. LLCs. If a Home is owned by an LLC, the managing member shall designate a person, who may be an officer, employee, or agent, who shall be treated as the Member who can exercise the Voting Interest associated with such Home.

3.1.5. Partnerships. If a Home is owned by a limited partnership, any one of the general partners may exercise the Voting Interest associated with such Home. By way of example, if the general partner of a limited partnership is a corporation, then the provisions hereof governing corporations shall govern as with respect to such general partner. If a Home is owned by a general partnership, any one of the general partners may exercise the Voting Interest associated with such Home. In the event of a conflict among general partners entitled to exercise a Voting Interest, the Voting Interest for such Home cannot be exercised.

3.1.6. Multiple Individuals. If a Home is owned by more than one individual, any one of such individuals may exercise the Voting Interest with respect to such Home. In the event that there is a conflict among such individuals, the Voting Interest for such Home cannot be exercised.

3.1.7. Liability of Association. Association may act in reliance upon any oral representation, writing, instrument or signature, whether original or facsimile, which Association, in good faith, believes to be genuine and/or true and correct, may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument, and may assume that any person purporting to give any writing, notice, advice or instruction in connection with the provisions hereof has been duly authorized to do so. In the event of any dispute among persons alleging the right to exercise the Voting Interest appurtenant to a Home, the sole remedy available shall be appropriate legal

proceedings between such persons without the joinder of Association. So long as Association acts in good faith, Association shall have no liability or obligation with respect to the exercise of Voting Interests, and no election shall be reheld (in the absence of fraud) on the basis that Association permitted or denied any person the right to exercise a Voting Interest.

3.2. Annual Meetings. The annual meeting of the Members (the "Annual Members Meeting") shall be held at least once each calendar year on a date, at a time and at a place to be determined by the Board.

3.3. Special Meetings of the Members. Special meetings of the Members (a "Special Members Meeting") may be called by the President, the Board, or upon written request of ten percent (10%) of the Voting Interests of the Members. The business to be conducted at a Special Members Meeting shall be limited to the extent required by the Florida Statutes.

3.4. Notice of Members Meetings. Written notice of each Members Meeting shall be given by, or at the discretion of, any officer of the Board. A copy of the notice shall be mailed to each Member entitled to vote, postage prepaid, not less than five (5) days before the meeting (provided, however, in the case of an emergency, two (2) days' notice will be deemed sufficient). The notice shall be addressed to the Member's address last appearing on the books of Association. The notice shall specify the place, day and hour of the meeting and, in the case of a Special Members Meeting, the purpose of the meeting. Alternatively, and to the extent not prohibited by the Florida Statutes, the Board may adopt from time to time, other procedures for giving notice to the Members of the Annual Members Meeting or a Special Members Meeting. By way of example, and not of limitation, such notice may be included in a newsletter sent to each Member by Association.

3.5. Quorum of Members. Until the Community Completion Date, a quorum shall be established by Declarant's presence at any Members Meeting. At any time prior to the Community Completion Date that Declarant is not present at any meeting, or from and after the Community Completion Date, a quorum shall be established at a Members Meeting by the presence, in person or by proxy, of Members entitled to cast thirty percent (30%) of the Voting Interests, except as otherwise provided in the Articles, the Declaration, or these By-Laws. Notwithstanding any provision herein to the contrary, in the event that technology permits Members to participate in Members Meetings and vote on matters electronically, then the Board shall have authority, without the joinder of any other party, to revise this provision to establish appropriate quorum requirements.

3.6. Adjournment of Members Meetings. If, however, a quorum shall not be present at any Members Meeting, the meeting may be adjourned as provided in the Florida Statutes. In the absence of a provision in the Florida Statutes, the Members present shall have power to adjourn the meeting and reschedule it on another date.

3.7. Action of Members. Decisions that require a vote of the Members must be made by a concurrence of a majority of the Voting Interests present in person or by proxy, represented at a meeting at which a quorum has been obtained unless provided otherwise in the Declaration, the Articles, or these By-Laws.

3.8. Proxies. At all Members Meetings, Members may vote their Voting Interests in person or by proxy. All proxies shall comply with the provisions of Section 617.306(6) of the Florida Statutes, be in writing, and be filed with the Secretary at, or prior to, the meeting. Every proxy shall be revocable prior to the meeting for which it is given. A proxy may be signed by any person who may exercise a Voting Interest.

#### 4. Board of Directors.

4.1. Number. The affairs of Association shall be managed initially by a Board consisting of three (3) persons. After the Community Completion Date, the Board shall consist of either three (3) or five (5) persons. Board members appointed by Declarant need not be Members of Association. Board members elected by Owners must be Members of Association.

4.2. Term of Office. The election of Directors shall take place after Declarant no longer has the authority to appoint the Board and shall take place at the Annual Members Meeting or on the Turnover Date. Directors shall be elected for staggered terms of one (1) or two (2) years, as follows. If the Board has three (3) members, the two (2) Board members receiving the most votes shall serve for a term of two (2) years. The other Board member shall serve for a term of one (1) year. If the Board has five (5) members, the three (3) Board members receiving the most votes shall serve for a term of two (2) years. The remaining two (2) Board members shall serve for terms of one (1) year. Directors appointed by Declarant shall serve for such term determined by Declarant.

4.3. Removal. Any vacancy created by the resignation or removal of a Board member appointed by Declarant may be replaced by Declarant. Declarant may replace or remove any Board member appointed by Declarant in Declarant's sole and absolute discretion. In the event of death or resignation of a Director elected by the Members other than Declarant, the remaining Directors may fill such vacancy. Directors elected by Members may be removed with or without cause, by the vote or agreement in writing of Members holding a majority of the Voting Interests.

4.4. Compensation. No Director shall receive compensation for any service rendered as a Director to Association. However, any Director may be reimbursed for actual expenses incurred as a Director.

4.5. Action Taken Without a Meeting. The Board shall have the right to take any action without a meeting by obtaining the written approval of the required number of Directors. Any action so approved shall have the same effect as though taken at a meeting of Directors.

4.6. Appointment and Election of Directors. Until the Turnover Date, Declarant shall have the unrestricted power to appoint all Directors of Association. From and after the Turnover Date (or such earlier date determined by Declarant in its sole and absolute discretion), the Members shall elect Directors of Association at or in conjunction with the Annual Members Meeting of the Members.

4.7. Election. Election to the Board shall be by secret written ballot, unless unanimously waived by all Members present. The person(s) receiving the largest numbers of votes shall be elected. Cumulative voting is not permitted.

#### 5. Meeting of Directors.

5.1. Regular Meetings. Regular meetings of the Board shall be held at such place, hour, and date as may be fixed, from time to time, by resolution of the Board. Meetings shall be held at least once each calendar year.

5.2. Special Meetings. Special meetings of the Board shall be held when called by the President, or by any two (2) Directors. Each Director shall be given not less than two (2) days' notice except in the event of an emergency making such notice imprudent. Notice may be waived. Attendance shall be a waiver of notice. Telephone conference meetings are permitted.

5.3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting, at which a quorum is present, or in writing in lieu thereof, shall be action of the Board.

5.4. Open Meetings. Meetings of the Board shall be open to all Members whose participation shall be permitted only with Board acknowledgment or upon advance request through an item properly placed on the Board meeting agenda.

5.5. Voting. Board Members shall cast votes in the manner provided in the Florida Statutes. In the absence of a statutory provision, the Board shall establish the manner in which votes shall be cast.

5.6. Notice of Board Meetings. Notices of meetings of the Board shall be posted in a conspicuous place on the Community Property at least 48 hours in advance, except in an emergency. Alternatively, notice may be given to Members in any other manner provided by Florida Statutes. By way of example, and not of limitation, notice may be given in any newsletter distributed to the Members. Notices of any meetings of the Board at which Assessments against Homes are to be established shall specifically contain a statement that Assessments shall be considered and a statement of the nature of such Assessments.

## 6. Power and Duties of the Board.

6.1. Powers. The Board shall, subject to the limitations and reservations set forth in the Declaration and Articles, have the powers reasonably necessary to manage, operate, maintain and discharge the duties of Association, including, but not limited to, cause Association to do the following:

6.1.1. Exercise all powers, duties and authority vested in or delegated to Association by law and in these By-Laws, the Articles, the Declaration;

6.1.2. Adopt, publish, promulgate and enforce rules and regulations governing The Cove by the Members, tenants and their guests and invitees, and to establish penalties and/or fines for the infraction thereof subject only to the requirements of the Florida Statutes, if any;

6.1.3. Suspend the right of use of the Community Property (other than for vehicular and pedestrian ingress and egress and for utilities) of a Member during any period in which such Member shall be in default in the these By-Laws, the Articles, the Declaration or the payment of any Assessment or charge levied, or collected, by Association;

6.1.4. Declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular Board meetings;

6.1.5. To operate and maintain portions of the Community Property in compliance with all governmental permits;

6.1.6. To enter into agreements and/or contracts with governmental agencies under which Association shall perform certain maintenance, management and/or other agreed upon services with respect to The Cove;

6.1.7. Employ, on behalf of Association, managers, independent contractors, or such other employees as it deems necessary, including, without limitation, a Facility Manager, to prescribe their duties and delete to such manager, contractor, or other person or entity any or all of the duties and functions of Association and/or its officers;

6.1.8. Acquire, sell, operate, lease, manage and otherwise trade and deal with property, real and personal, including the Community Property and with any other matters involving Association or its Members, on behalf of Association or the discharge of its duties, as may be necessary or convenient for the operation and management of Association and in accomplishing the purposes set forth in the Declaration;

6.1.9. Grant licenses, easements, permits, leases, or privileges to any individual or entity, including non-parcel owners, which affect the Community Property and The Cove, and to alter, add to, relocate, or improve The Cove;

6.1.10. Prepare all financial reports required by Florida Statutes.

6.2. Vote. The Board shall exercise all powers so granted except where the Declaration, Articles or these By-Laws specifically require a vote of the Members.

6.3. Limitations. Prior to the Community Completion Date, actions of Association, the Board and/or the ARC and/or other committee shall be subject to the approval of the Declarant. If disapproved, the action shall have no force and effect. This right shall be exercisable only by the Declarant, its successors, and assigns. Prior to the Community Completion Date, no action authorized by Association, the Board, the ARC or any committee shall become effective, nor shall any action, policy, or program be implemented until and unless:

6.3.1. Declarant shall have been given written notice of all meetings and proposed actions approved at meetings of Association, the Board, the ARC or any committee by professional courier with receipt at the address Declarant has registered with the Secretary of Association, as it may change from time to time.

6.3.2. Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any proposed action, policy, or program to be implemented by Association, the Board, the ARC or any committee.

6.3.3. Declarant shall have and is hereby granted a right to disapprove any such action, policy, or program proposed or authorized by Association, the Board, the ARC or any committee.

6.3.4. The foregoing rights may be exercised by Declarant, its representatives, or agents at any time within ten (10) days following the meeting held pursuant to the terms and provisions hereof. This right to disapprove may be used to veto proposed actions.

7. Obligations of Association. Association, subject to the provisions of the Declaration, Articles, and these By-Laws, shall discharge such duties as necessary to operate Association and pursuant to the Declaration, including, but not limited to, the following:

7.1. Maintain and make available all Official Records.

7.2. Fix and collect the amount of the Assessments against, or due from, each Owner including, but not limited to, fines, lien enforcement, and other necessary legal proceedings, and pay, or cause to be paid, all obligations of Association or where Association has agreed to do so, of the Members;

7.3. Issue, or to cause an appropriate officer or agent to issue, upon demand by any person, a certificate setting forth whether or not Assessments have been paid. A reasonable charge may be made by

for the issuance of the certificate. If the certificate states that Assessments have been paid, such certificate shall, as against other than the Owner, be conclusive evidence of such payment;

7.4. Procure and maintain adequate bonds, liability, hazard, property and/or casualty insurance, as required;

7.5. Administer the reconstruction after casualty of improvements on the Community Property, as required;

7.6. Operate, maintain, repair and replace the Community Property;

7.7. Enforce the provisions of the Declaration, Articles, these By-Laws, and the Development Guidelines;

7.8. After the Turnover Date, Association shall designate one person to serve as a facility manager responsible for tracking the conditions of the governmental permits, enforcement of such conditions within The Cove and reporting to governmental entities, if required.

#### 8. Officers and Their Duties.

8.1. Officers. The officers of this Association shall be a President, a Vice-President, a Secretary, and a Treasurer.

8.2. Election of Officers. Except as set forth below, the election of officers shall be by the Board and shall take place at the first meeting of the Board following each annual meeting of Association.

8.3. Term. The officers named in the Articles shall serve until their replacement by the Board. The officers of Association shall hold office until their successors are appointed or elected unless such officer shall sooner resign, be removed, or otherwise disqualified to serve.

8.4. Special Appointment. The Board may elect such other officers as the affairs of Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

8.5. Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein. Acceptance of such resignation shall not be necessary to make it effective.

8.6. Vacancies. A vacancy in any office shall be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the replaced officer.

8.7. Duties. The duties of the officers are as follows:

#### PRESIDENT

The President shall preside at all meetings of Association and Board, sign all leases, mortgages, deeds and other written instruments and perform such other duties as may be required by the Board. The President shall be a member of the Board.

VICE PRESIDENT

The Vice President shall act in the place and stead of the President in the event of the absence, inability or refusal to act of the President, and perform such other duties as may be required by the Board.

SECRETARY

The Secretary shall record the votes and keep the Minutes of all meetings and proceedings of Association and the Board; keep the corporate seal of Association and affix it on all papers required to be sealed; serve notice of meetings of the Board and of Association; keep appropriate current records showing the names of the members of Association together with their addresses; and perform such other duties as required by the Board.

TREASURER

The Treasurer shall cause to be received and deposited in appropriate bank accounts all monies of Association and shall disburse such funds as directed by the Board; sign, or cause to be signed, all checks, and promissory notes of Association; cause to be kept proper books of account and accounting records required pursuant to the provisions of Section 617.303 of the Florida Statutes; cause an annual budget and a statement of income and expenditures to be prepared and presented to the membership at the Annual Members Meeting; and perform such other duties as required by the Board.

9. Committees.

9.1. General. The Board may appoint such committees as deemed appropriate. The Board may fill any vacancies on all committees.

9.2. Enforcement Committee. In addition to any other committees, which may be established by the Board pursuant to Section 9.1 of this Article, the Board may appoint an Enforcement Committee to act, in accordance with the provisions of the Declaration, as the hearing tribunal of Association.

9.3. The ARC. Declarant shall have the sole right to appoint the members of the ARC until such time as provided in the Declaration. Upon expiration of the right of Declarant to appoint members of the ARC as provided in the Declaration, the Board shall appoint the members of the ARC. As provided under the Declaration, Association shall have the authority and standing to seek enforcement in courts of competent jurisdiction any decisions of the ARC.

10. Records. The official records of Association shall be available for inspection by any Member at the principal office of Association. Copies may be purchased by a Member at a reasonable cost.

11. Corporate Seal. Association shall have an impression seal in circular form.

12. Amendments.

12.1. General Restrictions on Amendments. Notwithstanding any other provision herein to the contrary, no amendment to these By-Laws shall affect the rights of Declarant unless such amendment receives the prior written consent of Declarant, which may be withheld for any reason whatsoever. No amendment shall be effective until it is recorded in the Public Records.



12.2. Amendments Prior to the Turnover Date. Prior to the Turnover Date, Declarant shall have the right to amend these By-Laws, as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Declarant's right to amend under this provision is to be construed as broadly as possible. In the event that Association shall desire to amend these By-Laws prior to the Turnover Date, Association must first obtain Declarant's prior written consent to any proposed amendment. Thereafter, an amendment identical to that approved by Declarant may be adopted by Association pursuant to the requirements for amendments from and after the Turnover Date. Thereafter, Declarant shall join in such identical amendment so that its consent to the same will be reflected in the Public Records.

12.3. Amendments From and After the Turnover Date. After the Turnover Date, but subject to the general restrictions on amendments set forth above, these By-Laws may be amended with the approval of (i) seventy-five (75%) of the Board; and (ii) seventy-five percent (75%) of all of the votes in Association. Notwithstanding the foregoing, these By-Laws may be amended after the Turnover Date by seventy-five percent (75%) of the Board acting along to change the number of directors on the Board. Such change shall not require the approval of the Members. Any change in the number of directors shall not take effect until the next Annual Members Meeting.

13. Miscellaneous. The first fiscal year shall begin on the date of incorporation and end on December 31<sup>st</sup> of that year. Thereafter, the fiscal year of Association shall begin on the first day of January and end on the 31<sup>st</sup> day of December of every year.

13.1. Gender. Whenever a masculine or singular pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine, or neuter; singular or plural, as the context requires.

13.2. Severability. Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

13.3. Conflict. If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these By-Laws and the Declaration or Articles of Incorporation, the provisions of the Declaration and the Articles of Incorporation shall prevail over the provisions of the By-Laws.

The foregoing constitute the first By-Laws of The Cove Owners' Association, Inc., and were duly adopted at the first meeting of the Board of Directors held on DECEMBER 11, 2001.

Dated: DECEMBER 11, 2001.



Secretary

(CORPORATE SEAL)

Attest:



Neil J. Gaeta, President

**EXHIBIT 4**

**LOTS WITH BULKHEAD WALL MAINTENANCE OBLIGATIONS**

Lots 9 through 12

**EXHIBIT 5**  
**LOTS WITH UPLAND RETAINING WALL MAINTENANCE OBLIGATIONS**

Lots 1 through 9 and 12 through 20

**EXHIBIT 6**  
**LOTS WITH BOTH BULKHEAD AND UPLAND RETAINING WALL**  
**MAINTENANCE OBLIGATIONS**

Lots 9 and 12