

**SECOND AMENDED AND RESTATED  
DECLARATIONS OF COVENANTS AND RESTRICTIONS  
FOR  
THE GARDEN VILLAS AT GATOR TRACE OF ST. LUCIE**

This Second Amended and Restated Declaration, made this \_\_\_\_ day of March 2022, by THE GARDEN VILLAS AT GATOR TRACE OF ST. LUCIE HOMEOWNER'S ASSOCIATION, INC. (hereinafter "Association"), shall amend the Declaration (Original Declaration) made the 25th day of April, 1989, by ERSKINE FLORIDA PROPERTIES, INC. (Developer), a Florida corporation, recorded in the St. Lucie County Records in OR Book 633, Page 2915, and amended at OR Book 832, Page 2992, OR Book 1066, Page 2913, and OR Book 3964, Page 1706.

**RECITALS**

- A. Association is the owner of the common real property remaining after all villa Lots were conveyed to others (Common Areas), located in St. Lucie County, Florida and more particularly described in Exhibit "A", attached hereto and made a part hereof ("the Property"), commonly known as THE GARDEN VILLAS AT GATOR TRACE OF ST. LUCIE".
- B. Association desires maintain a community containing residential, villas, along with roadways, open spaces, and other facilities on the Property.
- C. Association desires to provide for the preservation and enhancement of the property values and amenities in the community and for the maintenance of the Property and Improvements and to accomplish that purpose Association desires to subject the properties to the covenants, restrictions, easements, assessments, charges and liens hereinafter set forth for the benefit of the Property and each owner thereof, including the Owners of the Units. (The terms "Owner" and "Unit" are defined in Article 1.)
- D. Association has deemed it desirable for the efficient preservation of the values and amenities in the community to maintain an entity to which will be delegated and assigned the powers, rights and duties of, including but not limited to; (a) owning, maintaining and administering the Common Areas (as defined in Article 1) of the community; (b) administering and enforcing the covenants and restrictions created by this instrument, including those relating to architectural control; (c) collecting and disbursing the assessments and charges established by this instrument; and (d) promoting the recreation, health, safety and welfare of the residents of the community.
- E. THE GARDEN VILLAS AT GATOR TRACE OF ST. LUCIE was formed as a non-profit corporation under the laws of the State of Florida for the purpose of accepting and assuming, the aforesaid powers, rights and duties and performing the aforesaid functions.

**DECLARATION:**

The Association hereby declares that the real property in Exhibit "A" of this Declaration ("Property") defined as residential units is and shall be held, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, easements, reservations, assessments, charges and liens hereinafter set forth.

**ARTICLE I  
DEFINITIONS**

The following words when used in this Declaration and all its exhibits (unless the context otherwise requires) shall have the following meanings or definitions:

1.1 "Architectural Review Board" or "ARB" - A committee of the Association, created by the Board of Directors for the purpose of establishing and enforcing criteria for the construction of Improvements within the Property. The Board of Directors may act in place of and as the Architectural Review Board.

1.2 "Articles of Incorporation" - The Articles of Incorporation of the Association as they may exist from time to time.

1.3 "Association" - THE GARDEN VILLAS AT GATOR TRACE OF ST. LUCIE, a Florida corporation not-for-profit, its successors and assigns.

1.4 "Board" or "Board of Directors" - The Board of Directors of the Association.

1.5 "By-Laws" - The By-Laws of the Association as the same may be amended from time to time.

1.6 "Common Areas" - All portions of the Property (not the responsibility of the Master Association) which are intended for the common use and enjoyment of all the Owners, and which are identified and dedicated to the Association on the recorded subdivision plat of the Property, or conveyed to the Association by deed, or that portion of the Property, which the Association has specifically assumed the obligation and responsibility for administration and/or maintenance, together with any and all improvements from time to time erected on such property including without limitation, walkways, parking facilities, open spaces, streets, sidewalks, street lighting, lakes waterways, roads, roadways, entrance fixtures, landscaping, guard house, swimming, pools and other recreational facilities, but excluding any public or private utility installation thereon.

The term "Common Areas" shall also include any personal property acquired by the Association if said property is designated as such in the bill of sale or instrument transferring same.

1.7 "Common Expenses" - That portion of the expenditures for maintenance, operation and other services required or authorized to be performed by the Association pursuant to this Declaration which are attributable to the Common Areas and all other general operating costs and obligations of the Association as set forth in this Declaration such as, but not limited

to, maintenance and repair, insurance premiums, taxes, legal and accounting fees and office supplies, for which all Members of the Association are liable.

1.8 "Declaration" - This Declaration as the same may from time to time be amended.

1.9 (This paragraph intentionally left blank.)

1.10 "Improvements" - All structures of any kind or nature whatsoever, including, without limitation, any building, residential Unit, walkway, fence, roadway sign, paving, grading, parking and building addition, alteration, screen enclosure, sewer, drain, disposal system, decorative building landscaping, or landscape device or object which may be constructed by Owner.

1.11 "Institutional Lender" - The owner and holder of a mortgage encumbering a Lot/Unit which owner and holder of said mortgage shall be a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust or a lender

1.12 "Lot" - Any tract of land located within the Properties Unit, and which is designated as a "Lot" on any subdivision plat or site plan of the Property.

1.13 "Master Association" - That Association established pursuant to the Master Declaration of Covenants and Restrictions for Gator Trace recorded in C.R. Book 519 at Pages 594 through 614.

1.14 "Member" - An Owner who is a member of the Association as provided in Paragraph 3.1.

1.15 "Owner" - The record owner of fee simple title, whether one or more persons or entities; of a Lot and the Unit situated thereon but excluding those having such interest merely as security for the performance of an obligation. References in this Declaration or its exhibits to Owner or Member may be used interchangeably. Each Owner shall be a Member and each Member shall be an Owner.

1.16 "the property" - All of the real property described in Exhibit "A" hereof, which are subject to the terms and conditions of this Declaration, including any real property as in the future is subjected to said Declaration.

1.17 "Rules and Regulations" - The rules and regulations included in this Declaration and Bylaws and such further or amended rules and regulation as may from time to time be adopted by the Board of Directors.

1.18 "Unit" - Any residential single family home constructed on a Lot comprising a part of and situated within the Property, including Villa Units.

1.19 "Villa Building" - A residential structure built on the Property which are comprised of two (2) Villa Units.

1.20 "Villa Units" - A single family residential structure and the underlying lots which are owned in fee simple and which is located in a Villa Building.

Addendum to Definitions of the Covenants 1997

1.21 Class 1 -All Villas constructed before Feb. 1994, before the Amendments to the St. Lucie County, Building Code.

1.22 Class 2-All Villas constructed after Feb. 1994, after the Amendments to the St. Lucie County-Building Codes were adopted.

ARTICLE 2

PROPERTY SUBJECT TO THIS DECLARATION

2.1 Legal Description. The real property which is and shall be held, transferred, sold, conveyed, demised and occupied subject to this Declaration is located in St. Lucie County, Florida, and is more particularly described on Exhibit "A" annexed hereto and made a part hereof.

2.2 (This paragraph intentionally left blank.)

2.3 Merger or Consolidation. Upon a merger or consolidation of the Association with any other association as provided in its Articles of Incorporation, its properties, rights and surviving or consolidated association or, alternatively the properties, rights and obligations of another association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Property together with the covenants and restrictions established upon any other property as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the covenants established by this Declaration with the Property.

ARTICLE 3

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

3.1 Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot within the Property, shall be a member of the Association. Notwithstanding anything else to the contrary set forth in this Paragraph 3.1, any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a Member of the Association. Each Member, including the Member's family, guests, invitees and lessees, shall, while in or on the Property, abide by and be bound by the provisions of this Declaration, the Articles of Incorporation, the By-Laws and other rules and regulations of the Association.

3.2 **Voting Rights.** When more than one person holds such interest or interests in any Lot, all such persons shall be Members. The vote shall be exercised by one such Member as specified in the Articles of Incorporation of the Association and in no event shall more than one vote be cast with respect to any such Lot.

3.3 **Suspension of Voting Rights.** Notwithstanding the provisions hereof, the Association shall have the right to suspend any Member's voting right for any period during which any assessment or installment thereof shall remain unpaid for more than thirty (30) days after the due date for the payment thereof.

#### ARTICLE 4

##### PROPERTY RIGHTS IN AND MAINTENANCE OF THE COMMON AREAS

4.1 (Item 4.1 intentionally left blank.)

4.2 **Obligations of the Association.** The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the management and control of the Common Areas and all improvements thereon (including furnishings and equipment related thereto), payment of taxes assessed against the Common Areas and any improvements and personal property thereon, and shall keep and maintain the same in good, clean, attractive, and sanitary condition, order and repair. The Association shall, at its expense, maintain and administer or cause to be maintained and administered the Common Areas, including, but not limited to, the surface water management system (including all lakes, waterways and canals located within the Property), entrance features, streets, roads, roadways, guard house (if any), security system, security personnel, security vehicles and security facilities all grass areas throughout the Common Areas (including irrigation thereof), landscaping in the Common Areas (including irrigation thereof), swimming pool, irrigation and sprinkler pipes and systems (including operation thereof) and other recreational facilities, without regard to whether title to the said property is vested in the Association or some other entity, all in compliance with the Architectural Criteria for THE GARDEN VILLAS AT GATOR TRACE OF ST. LUCIE. This Association shall not be responsible for property subject to the control of the Master Association.

In addition, the Association shall take any and all actions necessary to enforce all covenants, conditions and restrictions affecting the Property and to perform any of the functions or services delegated to the Association in any covenants, conditions or restrictions applicable to the properties or in the Articles or By-Laws.

4.3 **Owners' Easements of Enjoyment.** Subject to the limitations and provisions hereof, every Owner shall have a right and easement of use and enjoyment in and to the Common areas which shall be appurtenant to and shall pass with title to every Lot.

4.4 **Members' Easements pertaining to the Common Areas.** Each Member of the Association and each tenant, guest and invitee of such Member shall have a permanent and

perpetual easement over and across the Common Areas for use in common with all other Members, their tenants, guests and invitees. The Common Areas shall be for the common use and enjoyment of the Members of the Association and each Member shall have a permanent and perpetual easement for the use of such portion of such lands as common open space in such manner as may be regulated by the Association. The easements provided in this Paragraph 4.4 shall be appurtenant to and pass with the title to each Lot. The Members' rights of enjoyment and use of the Common Areas and easements area subject to the following:

- 4.4.1 The right and duty of the Association to levy assessments against each Lot located with the Property for the purpose of maintaining the Common Areas in compliance with the provisions of this Declaration and with the restrictions on the plat or plats of THE GARDEN VILLAS AT GATOR TRACE OF ST. LUCIE.
- 4.4.2 The right of the Association to suspend the voting rights of a Member and right of a Member to use the Common Areas for any period, during which any assessment against his Lot remains unpaid for a period in excess of thirty (30) days and for any infraction of its lawfully adopted and published Rules and Regulations.
- 4.4.3 The rights of the Association to adopt and enforce rules and regulations governing the use of the Common Areas and all facilities at any time situated thereon, including the promulgation of traffic regulations for the use of the streets within the Property.
- 4.4.4 The right of the Association to mortgage the said Common Areas for the purpose of the improvement, repair or restoration thereof.
- 4.4.5 The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency authority or utility for such purposes and upon such conditions as may be agreed to by the Members.

4.5 Certain Member's Rights to Use Additional Common Area. If Additional real property is brought under the provisions hereof by recorded supplemental declaration pursuant to Article 2, then and in such event every Owner of a Lot upon such additional real property, and each tenant, guest and invitee of such Owner, shall have the right to use and enjoy such additional Common Areas located upon such additional real property as shall be designated for their use and enjoyment by such supplemental declaration. Every Owner of a Unit upon such additional real property which is brought under the provisions hereof by recorded supplemental declaration shall have the right to use and enjoy Common Areas previously subject to the terms of this Declaration whether as originally filed or as subsequently supplemented and shall have the right to use and enjoy any Common Area submitted to the terms hereof by supplemental declaration. The rights to use and enjoy Common Areas shall be subject to the rights described in Paragraphs 4.4.1; 4.4.2; 4.4.3; 4.4.4 and 4.4.5 above.

4.6 **Utility Easements.** Public utilities and cable televisions and security shall be installed underground in the Common Areas when necessary for the service of the Property, but all use of utility easements shall be in accordance with the applicable provisions of this Declaration and the Master Association.

4.7 **Public Easements.** Fire, police; health, sanitation and perpetual, non-exclusive easement for ingress and egress over and across the Common Areas.

4.8 **Easement for Unintentional and Non-Negligent Encroachments.** If a Building or any Unit or Improvement shall encroach upon any portion of the Common Areas or upon any easement by reason of original then an easement for such encroachment shall exist so long as the encroachment exists.

4.9 **Additional Easements.** The Association shall have the right to grant such additional, electric, telephone, gas, sprinkler, irrigation, cable television, security or other utility easements, and to relocate any existing utility easement in any portion of the Property and to grant access easements and to relocate any existing access easements in any portion of the Property as the Association shall deem necessary or desirable, for the proper operation and maintenance of the Property, or any portion thereof, for the general health or welfare of the Owners or for the purpose of carrying out any provisions of this Declaration; provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the use or sale of the Lots and/or Units.

4.10 **Declaration of Use.** Any Member may delegate his common right to the use and enjoyment of the Common Areas to the members of his family and to his guests, subject to such general rules and regulations as may be established from time to time by the Association. The foregoing delegation shall not be deemed to exclude the Member from the use and enjoyment of the Common Areas.

4.11 **Maintenance of Common Areas.** The Association shall at all times maintain in good repair and condition, and shall replace as often as necessary, any and all Improvements situated on the Common Areas including, but not limited to, all grass areas throughout the Common Areas (including irrigation thereof), landscaping in the Common Areas and along the rights-of-way (including irrigation thereof), sprinkler and irrigation pipes and systems (including operation thereof), entrance features and other structures, except public utilities, all such work to be done as ordered by the Board of Directors acting on a majority vote of the Board. Gator Trace Master Property Owners Association, Inc. maintains the street lighting fixtures which includes the fixtures within the Common Areas and shall further extend to payment for electricity consumed in the illumination of such lights.

Operation of the sprinkler and irrigation system in connection with maintaining and irrigating of the grass areas of the Common Areas and the landscaping in the Common Areas along the rights-of-way extends to payment for water consumer thereby. All work pursuant to this Paragraph and all expenses hereunder shall be paid for by the Association through assessments imposed in accordance with Article 6 hereof. Such assessments shall be against all Lots; provided, however, that the cost of any maintenance repair or replacement caused by negligent conduct of a Member or by the failure of a Member to comply with lawfully adopted Rules and Regulations shall be levied as a special assessment against such Member. No Owner may waive or otherwise escape liability for the assessments for such maintenance by non-use of the Common Areas or abandonment of his right to use the Common Areas.

The Association, its successors and assigns, shall have a perpetual, non-exclusive easement for the ingress and egress over, upon and across all portions of the Properties and to excavate thereon in connection with the maintenance of sprinkler pipes and systems to the extent necessary for the performance of the work to be performed pursuant to this paragraph; provided, however, that the party causing any such excavations restores disturbed areas to the condition thereof immediately prior to such excavations.

4.12 **Liability and Property Damage Insurance for Common Areas.** The Association shall obtain comprehensive general public liability and property damage insurance covering all of the Common Areas insuring the Association and the Members as its and their interest appear in such amounts and providing such coverage as the Board of Directors may determine from time to time. In the event of loss or damage to any portion of the Common Areas, the Association is unconditionally obligated to restore or replace the damaged property to its previous condition.

## ARTICLE 5

### COVENANTS FOR ASSESSMENTS

5.1 **Creation of the Lien and Personal Obligation for Assessments.** Each Owner of a Lot within the Property by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay to the Association the following: (1) annual general assessments or charges; (2) special assessments; and (3) individual assessments.

All assessments, together with fines, penalties, levies, and costs of collection thereof shall be a charge and continuing lien upon the Lot against which such assessments are made. Each such assessment, together with fines, penalties, and levies thereon and costs of collection thereof, shall also be the personal obligation of the person who was the Owner of such Lot at the time such assessment fell due. If two or more persons or entities are then the Owner of such Lot, such obligation shall be the joint and several personal obligations of such persons or entities.

5.2 **General Assessments.** The general assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Properties and in particular for (a) the improvement, maintenance, administration and operation



of the Common Areas to be improved, maintained, administered and/or operated by the Association pursuant to this Declaration; (b) the maintenance, repair, replacement, preservation and reconstruction of the exterior portions of the Units within the Property as provided herein; and (c) the performance of the functions, duties, responsibilities and powers of the Association under and pursuant to this Declaration.

Each Lot within the Property shall be subject to the assessments as provided for under this Declaration, subject, however, to the following:

5.2.1 (Item 5.2.1 intentionally left blank.)

5.2.2 The Common Expenses of the Association shall be paid by all Owners of Lots as may be required by the Association to perform its functions, duties, responsibilities and obligations as provided for in this Declaration. All such Lots within the Property shall be assessed in the manner and in such amount(s) as determined by the Board of Directors.

5.2.3 Each Lot is subject to assessment.

By vote of a majority of the Directors, the Board shall determine the total anticipated Common Expenses of the Association for each calendar year which shall be set forth in a budget and the Board shall fix the annual assessment against each Lot so as to apportion the Common Expenses of the Association. Such assessments shall be sufficient for the Association to meet the obligations imposed by this Declaration. The Board shall set the date(s) such assessments and any installments thereof shall become due; provided, however, that in no event shall such assessments of any installments thereof be due more frequently than quarterly. Assessments shall be payable in advance as determined by the Board. Upon the failure of any Owner to pay any one or more installments of any such annual assessments within thirty (30) days after the due date thereof, the Board may declare the entire balance of such annual assessment to be immediately due and payable.

5.3 Special Assessments. In addition to the annual assessments authorized above, the Board of Directors may at any time and from time to time levy special assessments on each Lot; in the manner provided for herein for the purpose of funding any cash shortages arising from actual expenses incurred in excess of amounts budgeted therefore or for the purpose of defraying, in whole or in part, extraordinary items of Association expense other than those originally contemplated by the Board, as determined by the Board to be payable by the Association consistent with the terms of its Declaration and, the cost of any improvement upon the Common Areas, or anyone or more of them, including fixtures, personal property and equipment related thereto or as provided herein. Any assessment for capital improvements upon the Commons Areas must be approved by more than fifty percent (50%) of the Owners. This approval shall take place at a special meeting of the Association duly called for the purpose of considering such assessment. The owners may vote in person or by proxy.

5.4 Individual Assessments. The Association may impose an individual assessment upon any Owner whose use or treatment of its Lot/Unit is not in conformance with the standards adopted by the Association or which increases the maintenance cost to the Association above that which increases the maintenance cost to the Association above that which would result from compliance by the Owner with the use restrictions imposed by this Declaration. The amount of such assessment shall be equal to such costs incurred and may be enforced in the manner provided for any other assessment.

5.5 Duties of the Board of Directors. The Board of Directors shall fix the amount of the assessment against each Lot/Unit at least ten (10) days in advance of the commencement of the assessment period and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereof.

The Association shall, upon request, furnish to any Owner liable for an assessment a certificate of writing signed by an officer of the Association, setting forth whether such assessment has been paid as to the Lot owned by the Owner making request therefore. Such certificate shall be conclusive evidence of payment of any assessment to the Association therein state to have been paid.

It shall be the legal duty and responsibility of the Association to enforce payment of the assessments hereunder.

The Association, through the action of its Board of Directors shall have the power, but not the obligation, to enter into an agreement or agreements from time to time with one or more persons, firms or corporations for management services. The Association shall have all other powers as provided in its Articles of Incorporation.

5.6 Collection of Assessment; Effect of Non-Payment of Assessment; the Personal Obligation of the Owner; the Lien; Remedies of the Association. If an assessment is not paid on the date when due, then such assessment shall become delinquent and shall, together with such penalties and interest thereon and the cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot in the hands of the Owner, his heirs, devisees, personal representatives, successors or assigns. Any individual who acquires title to a Lot upon the death of an Owner or by operation of law shall be personally liable for unpaid assessments with respect to such Lot. In any voluntary conveyance, the Grantee shall be jointly and severally liable with the Grantor for all unpaid assessments made prior to the time of such voluntary conveyance, without prejudice to the rights of the Grantee to recover from the Grantor the amounts paid by the Grantee, therefore.

5.7 Effect of Non-Payment of Assessments; Remedies of the Association. Any assessment or installment thereof not paid within thirty (30) days after the due date shall be subject to a late charge of twenty-five (\$25.00) dollars or such other amount as may be established from time to time by the Board of Directors, which is hereby acknowledged not to be a penalty. In addition to the foregoing, if an assessment or installment thereof is not paid within thirty (30) days after due date, the assessment or installment thereof shall bear interest from the

date when due at the highest rate permitted by law to be charged to an individual in the State of Florida. The Association may bring an action at law against the Owner personally obligated to pay the assessment or installment thereof or any late charge or interest and/or may record a claim of lien against the Lot/Unit on which the assessment or installment thereof is unpaid, or may foreclose the lien against the Lot on which the assessments or installment thereof is unpaid, in like manner as foreclosure of a mortgage on real property, or pursue one or more of such remedies at the same time or successively, and there shall be added to the amount of such assessment or installment thereof, attorneys' fees and costs of preparing and filing the claim of lien and the complaint in such action, and in the event a judgment is obtained such judgment shall include interest as provided by law and reasonable attorneys' fee to be fixed by the court together with the costs of the action and the cost of collection. The Association shall be entitled to attorneys' fees in connection with any appeal of any such action. The Association shall not be required to transfer membership on its book or to allow the exercise of any rights or privileges of membership on account thereof to any Owner or to any person claiming under them unless or until all assessments and charges to which they are subject have been paid.

Except as provided in Section 5.8, in any conveyance of a Lot, including a conveyance by deed in lieu of foreclosure and by purchase at a foreclosure sale, the Grantee shall be jointly and severally liable with the Grantor for all unpaid assessments, interest, costs, and attorney's fees of any nature. Any person who acquires an interest in a Lot/Unit, including without limitation, persons acquiring title by operation of law and persons acquiring title through foreclosure, shall not be entitled to occupancy of such Lot/Unit until such time as all unpaid assessments and all interest, court costs and attorneys' fees, if any, incurred by the Association and due and owing by the former Lot Owner, have been paid in full. For purposes of this section, the term "Grantee" does not include the Association. The Association is not liable for any assessments, interest, cost, or attorney's fees accruing before the time it acquires title to a Lot/Unit.

5.8 Subordination of the Lien to Mortgages. The lien of the assessments provided for in this Article 5 shall be subordinate to the lien of any first mortgage in favor of an Institutional Lender which is recorded prior to the recordation of a claim of lien for unpaid assessments. An Institutional Lender is defined as either a bank or life insurance company or a federal or state savings and loan association, or a mortgage or real estate investment trust, or a pension and profit-sharing fund, or a credit union, or a Massachusetts business trust, or an agency of the United States government, or a lender generally recognized in the community as an Institutional Lender. A Institutional Lender holding a first mortgage that has acquired title through foreclosure or by deed in lieu of foreclosure shall hold title subject to the liability and lien of any assessment becoming due after such foreclosure of conveyance in lieu of foreclosure. The Institutional Lender's liability for assessments, interest, costs, and attorney's fees shall be limited as set forth in Section 720.3085, as may be amended from time to time. Any unpaid assessment which cannot be collected as a lien against any Lot by reason of the provisions of this Paragraph 5.8 shall be deemed to be assessment divided equally among, payable by, and assessed against all Lots, including the Lot as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

5.9 Exempt Property. The following properties subject to this Declaration are and shall be exempt from the assessments, charges and/or liens created herein; (1) all properties, if any, to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (2) all Common Areas; (3) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption; and (4) all property owned or controlled by the Master Association.

5.10 *Annual Budget.* By a majority vote of the Directors, the Board shall adopt an annual budget for the subsequent fiscal year, which shall provide for allocation of expenses in such a manner that the obligations imposed by the Declaration will be met.

5.10.1 *Reserve Fund.* The Board of Directors of the Association in assessing for Common Expenses may include therein a sum to be collected and maintained in a reserve fund for maintenance, repair and replacement of Common Areas and Units within the Property for the purpose of enabling the Association to replace and repair structural elements and mechanical equipment constituting a part of the Common Areas and the Units, as well as the replacement of personal property which may be a portion of the Common Areas.

5.10.2 *Operating Reserve Fund.* The Board of Directors of the Association, in assessing for Common Expenses, may include therein a sum to be collected and maintained as a general operating reserve which shall be used to provide a measure of financial security during periods of special stress. Such sums may be used to meet deficiencies from time to time existing as a result of delinquent payment of assessments by Lot Owners as a result of emergencies.

5.11 *Emergencies.* If assessments levied are, or may prove to be, insufficient to pay the costs of operation and management of the Association, or in the event of emergencies, the Board of Directors shall have the authority to levy such additional assessment or assessments as it shall deem necessary.

## ARTICLE 6

### USE AND MAINTENANCE OF THE PROPERTY AND UNITS

6.1 *Protective Covenants.* The Property is subject to the following restriction and covenants:

6.1.1 *Residential Use.* All Lots and Units shall be used, improved, and devoted exclusively for residential use and not for any trade, professional or commercial purposes. Nothing herein shall be deemed to prevent the Owner from leasing a Unit, subject to all of the provisions of the Declaration provided, however, that the term of any such lease shall not be less than three (3) months. A Lot and Unit shall not be leased more than three (3) times per calendar year. The ground floor garage space of any Unit shall not be used as a living area for the resident of such Unit. All management documents must be received prior to the leases' occupancy. Owners acquiring title to a Lot/Unit after the date of this amendment are not permitted to lease that Lot/Unit for the first twenty-four (24) calendar months (2 years) from the date of acquisition. This does not apply to the Association when it acquires a Lot/Unit through foreclosure or deed in lieu of foreclosure.

6.1.2 *Recreational facilities on Common Areas.* Nothing herein contained shall prevent or restrict the construction and maintenance of recreational facilities, including without limitation, swimming pools and other accessory facilities, upon the Common Areas.

6.1.3 *Zoning.* Uses which do not conform to zoning ordinances of the City of Fort Pierce and/or other applicable local zoning ordinances will not be permitted upon the Common Areas. Any portion of the plat or plat of the Property containing open spaces may not be vacated in whole or in part

unless the entire plat is vacated.

- 6.1.4 **Temporary Building.** No tents, trailers, vans, shacks, tanks or permanent, temporary or accessory buildings or structures shall be erected or permitted to remain on the Common Areas or the Property.
- 6.1.5 **Burial of Pipe and Tanks.** No water pipe, sewer pipe, drainage pipe or storage tank shall be installed or maintained on the Common Areas above the surface of the ground, except hoses and movable pipe used for irrigation purposes.
- 6.1.6 **Nuisances.** Nothing shall be done on the Common Areas or on the Lots or in the Units which may be or may become an annoyance or nuisance to the Owners or the Property. In the event of any question as to what may become a nuisance, such question shall be submitted to the Board of Directors for a decision in writing and its decision should be final.

No refuse or unsightly objects shall be allowed to be placed or suffered to remain anywhere on the Common Areas. The Board of Directors will be the court of last resort in the determination of what constitutes "unsightly."

**Parking:** Overnight outdoor parking is permitted only in the driveways of the Units. Overnight outdoor parking in front of any Lot or in front of, adjacent to, or part of any Common Area is prohibited for any vehicle. Only four-wheel passenger automobiles, station wagons, SUVs, passenger vans and pick-ups (with appropriate bed covers installed) being used strictly as passenger vehicles, and not identified or being used as commercial vehicles, shall be parked outside upon any Lot overnight. Parking on non-paved areas is prohibited. Overnight outdoor parking on any Lot or Common Area is prohibited for trailers, motor homes, RVs, campers, boat trailers, ATVs, after market modified vehicles or any other motor vehicle designed and used for transporting or delivering products or material used in trade or commerce. The Board of Directors, in its sole discretion, may exclude any other vehicle it deems not acceptable. This prohibition of parking shall not apply to temporary daytime parking of trucks or commercial vehicles for picking up, delivery or other commercial services. No motor vehicle of any kind may be disassembled, serviced, or repaired on any Lot or Common Area.

**Remedy of Towing.** If upon receipt of at least 24 hours personal notification from the Association, an offending vehicle owner does not remove a prohibited vehicle, the Association shall have the option and right to have the vehicle towed away at the vehicle owner's expense. In the event that the vehicle owner refuses to pay such costs, the Association shall levy a special assessment therefore against the Lot and Unit Owner in question, that is, the Unit Owner for himself/herself as the owner of the vehicle or for his/her family, lessees, guests, visitors, etc.; thereupon said assessment shall be collectible like any other special assessment provided for in this Declaration. Whether or not the Association exercises its right to have the vehicle so towed, the Association shall nonetheless have the right to seek compliance by injunctive and other relief through the Courts; and/or any other remedy conferred upon the Association by law. The Association's right to tow shall in no way be a condition precedent to any other remedies available to the Association incident to the enforcement of this covenant.

- 6.1.7 **Drainage.** No changes in elevations of property subject to these restrictions shall be made which will cause undue hardship to adjoining

property.

- 6.1.8 **Underground Wires.** No lines or wires for communication or the transmission of current shall be constructed, placed or permitted to be placed within the Common Areas unless the same shall be protected cables; any of said lines or wires which are not located in buildings shall be constructed or place and maintained underground.
- 6.1.9 **Children.** Dependent children of Owners of all ages shall be permitted to reside at any and all times in any part of the Property.
- 6.1.10 **Animals.** No farm animals, livestock or poultry of any kind may be kept on any property for any commercial use or purpose. A maximum of two (2) dogs or two (2) cats or other normal household pets, or any combination thereof, may be kept in the Units, providing that they do not become a nuisance or annoyance to any other owner. All animals must be kept on a leash when they are outside the Owner's Unit. It shall be the responsibility of any Owner to clean up any excrement left by their pet. Each Owner shall indemnify the Association and hold it harmless against any loss or liability resulting from the ownership of a pet in THE GARDEN VILLAS AT GATOR TRACE OF ST. LUCIE.
- 6.1.11 **Hurricane Season.** Each Unit Owner who plans to be absent from his Unit during the hurricane season must prepare his Unit prior to his departure by (1) removing all furniture, plants and other objects from their terrace or porch prior to their departure; and (2) designating a responsible firm or individual to care for their Unit, should the Unit suffer hurricane damage and furnish the Association with the name of said firm or individual. This information must be provided to the Association on a form prepared by the Association. Such firm or individual shall contact the Board for clearance to install or remove hurricane shutters. Hurricane shutters shall only be installed/closed when a state of emergency/hurricane/tropical storm warning has been declared. Shutters are not to be installed/closed at any other times except for seven (7) days before the storm and must be uninstalled/opened fourteen (14) days after the storm.
- 6.1.12 **Swimming Pools, Ancillary Buildings, Sheds, Walls, and er Fences.** No wall, fence, hedge or similar structure shall be placed, constructed, erected, or permitted on the Common Areas except with the written permission of the Board of Directors. No walls, swimming pool, ancillary building, shed, or similar type improvements may be placed, constructed, erected, or permitted on a Lot.
- 6.1.13 **Certain Restrictions, Rules and Regulations.** The following restrictions, rules and regulations shall be adhered to by each Owner, lessee, their guests and visitors:
- A. No Owner, lessee, their guest or visitors shall make or permit any disturbance, or noxious or offensive activity as determined by the Association that will interfere with the rights, comforts or convenience of others or which would cause any increase in premiums payable by the Association.
- B. All Owners and lessees of Units in the Properties shall abide by and shall be subject to the provisions of this Declaration, the Articles of Incorporation, the By-Laws and all Rules and Regulations as they are adopted from time to time by the Board of Directors. The Owners shall, at all times, obey the Rules and Regulations and shall use their best efforts to

see that they are faithfully observed by their families, guests, invitees, servants, lessees and persons over whom they exercise control and supervision.

C. The Board of Directors may adopt and amend, from time to time, reasonable rules and regulations governing the details of the use and operation of the Common Elements and Association property serving the Villas.

6.2 Utility Easements. There is hereby created a blanket easement, upon, across, over, through and under the Property for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems including, but not limited to, water, sewer, telephone, electricity and cable television and security lines and systems. By virtue of this easement, it shall be expressly permissible for the providing utility or service company to install and maintain facilities and equipment on the Property, to excavate for such purposes providing the party causing such excavations restores disturbed areas to the condition in which they were found. This easement shall in no way affect any other recorded easements on the Properties.

Easements for drainage, installation, and maintenance of utilities and for ingress and egress are reserved as shown on the recorded plat(s) of the Property. Within these easements, no plantings, buildings, or other permanent structures may be placed or permitted to remain that will interfere with vehicular traffic or prevent maintenance of utilities. Public utility companies servicing the Property and the Association, and their successors and assigns, shall have a perpetual easement for the installation and maintenance of water lines, sprinkler lines, sanitary sewers, storm drains, electric and telephone lines, cables and conduits, including television and security cables and conduits, under and through the utility easements as shown on the plats under and through such portions of the Property as are beyond the buildings and Units thereto, as such buildings and Units may from time to time be located. Any damage caused to pavement, driveways, drainage structures, sidewalks, other structures or landscaping in the installation and maintenance of such utilities shall be promptly restored and repaired by the utility whose installation or maintenance caused the damage.

(Item 6.3 Intentionally left blank.)

#### 6.4 Maintenance of Units.

6.4.1 The Association shall at all times be responsible for the maintenance, repair, preservation and care of the exterior portions (surfaces) of all the Units located within the Properties in a safe, clean, neat and sanitary condition in compliance with the covenants of this Declaration and all applicable laws, ordinances and regulations. The term "exterior portions (surfaces) of all the Units" is defined to include the exterior roof and walls (including fascia and soffit), exterior painting/staining, exterior siding (Masonite and Hardiboard), exterior lights, all lawns, grass areas, grounds and landscaping (both front and back yard, including irrigating water service, grass cutting, trimming, fertilizing and the like), sprinkler systems (both front and backyard), walk-ways, drainage, sidewalks, driveways.

The Association shall not be responsible for the maintenance, repair or replacement of any screens, glass, door, door frames, windows, window frames, shutters, or on any Unit. The Association is only responsible for maintaining, repairing, and replacing those items specifically referenced in Section 6.4.1 of this Declaration. However, the Association through the Board of Directors retains the right to have such maintenance performed when and if the Owner does not have it performed in a timely fashion, based per event. Owners are responsible for all incidental damages and expenses caused by the Association's maintenance, repair, and replacement work, including, without limitation, the cost of removing and installing hurricane shutters. Owners are also responsible for the cost of any work caused by improvements or alterations made by the Owner or the prior Owner of their Lot and

Unit. All necessary and appropriate maintenance as described herein shall be performed in accordance with the standards established and imposed from time to time by the Board consistent with the Architectural Criteria for THE GARDEN VILLAS AT GATOR TRACE OF ST. LUCIE and the maintenance of the Properties as a first-class residential community and all rules and regulations of any and all count and city governments having jurisdiction thereof.

In addition, all sums necessary to repair, replace, construct or reconstruct any Unit damaged by any casualty to the extent insurance proceeds are insufficient shall be an Association expense as provided by and pursuant to this Declaration. All work pursuant to this paragraph and all expenses hereunder shall be paid for by the Association through assessments imposed in accordance with Article 5 hereof. Such assessments shall be against all Lots pursuant to the terms of this Declaration provided, however, that the cost of any maintenance, repair or replacement caused by the negligent conduct of a Member, or by the failure of a Member to comply with lawfully adopted Rules and regulations shall be levied as a special assessment against such Member.

(Item 6.4.2 intentionally left blank.)

## 6.5 Party Walls.

6.5.1 Declaration. The common walls between adjoining Villa Unit shall be party walls for the perpetual benefit of and use of the Owners of such Villas, including the heirs, assigns, successors and grantees of each such Owner.

6.5.2 Maintenance, Repair or Reconstruction. In the event of damage or destruction of the party walls from any cause whatsoever, other than the negligence or willful misconduct of an Owner, the Owners of the adjoining Villa Units shall, at their joint expense, repair and rebuild said wall(s) and each Owner of the adjoining Villas shall have the right to full use as herein contained of said wall(s) as repaired or rebuilt. In the event it shall become necessary or desirable to perform maintenance on the whole or any part of the party wall(s), such expense shall be shared equally by the Owners of the adjoining villa(s) of their successors in title. Whenever such wall and or any part thereof, shall be rebuilt, it shall be erected in the same manner and at the same location where it was initially constructed, and shall be of the same size and of the same or similar materials and of like quality. Provided, that if such maintenance, repair or construction is brought about solely by such wrongdoer. If an Owner shall refuse to pay his share of such cost or all of such cost in the case of negligence or willful misconduct, any other Owner may have such wall repaired or reconstructed and shall be entitled to a lien on the villas of the Owner so failing to pay for the amount of such defaulting Owner's share of the repair or replacement cost plus the amount of damages, if any, together with a reasonable attorney's fee incurred. If any Owner shall give, or shall have given, a mortgage or mortgages upon his villas, then the mortgagee shall have the full right at his option to exercise the rights of his mortgagor as an Owner hereunder and in addition, the right to add to the outstanding balance of such mortgage any amounts paid by the mortgage for repair hereunder and not reimbursed to said mortgagee by the Owner. If any Owner shall cease to use the wall as a party wall, he shall be deemed to have abandoned all rights thereto, the wall shall become the property of the adjacent Owner who shall have an easement upon the land under the wall so long as the wall shall be used by him. Any Owner removing his improvements from the party wall shall do so in such manner as to preserve all rights of the adjacent Owner in the wall and shall save the adjacent Owner harmless from all damage caused thereby to improvements then existing. In the event repairs or reconstruction shall be necessary, all necessary entries on the adjacent villas(s) shall not be deemed a trespass so long as the repairs and reconstruction shall be done in an expedient



and workmanlike manner, consent being hereby given to enter on the adjacent Unit to effect necessary repairs and reconstruction.

6.5.3 **Restriction on Alterations;** The Owner of any villa sharing a party wall with the adjoining villa(s) shall not possess the right to cut windows or other openings in the party wall, nor make any alterations, additions, or structural changes in the party wall.

6.5.4 **Use of Party Wall.** The Owner of any such villa shall have the right to the full use of said party walls for whatever purposes he chooses to employ, subject to the limitation that such use shall not infringe on the rights of the Owner of an adjoining villa or his enjoyment of said walls or in any manner impair the value of said walls.

6.5.5 **Encroachment Provision.** The Owners agree that if any portion of a villa, including the party wall, encroaches upon another, a valid easement for the encroachments and maintenance of same, so long as it stands, shall and does exist. In the event a villa or villas are partially or totally destroyed and then rebuilt, the Owners of the villas agree that the encroachments, due to construction, shall be permitted.

6.5.6 There shall be an easement granted wherever necessary to those companies furnishing utilities to the villas enabling them to place centralized meters on the exterior wall of any of the villas. There shall also be an easement to those companies permitting their utility lines to run beneath each villa as needed.

(Item 6.6.1 intentionally left blank.)

(Item 6.6.2 intentionally left blank.)

(Item 6.6.3 intentionally left blank.)

6.7 **Conveyances.** In order to assure a community of congenial residents and thus protect the value of the Lots/Units in THE GARDEN VILLAS AT GATOR TRACE OF ST. LUCIE, the sale or lease of Lots/Units shall be subject to the following provisions:

6.7.1 The Owner shall notify the Association in writing of his intention to sell or lease his Lot/Unit and furnish with such notification a copy of the contract for sale or lease, whichever is applicable. The notice must be provided on the prescribed form prepared by the Association.

6.7.2 Upon receipt of a copy of the contract for sale or lease, the Association shall within ten (10) business days, issue a Certificate indicating the Association's approval of the transaction. In the event of a sale, it shall then be the responsibility of the purchaser of the Lot/Unit to furnish the Association with a recorded copy of the deed of conveyance indicating the Owner's mailing address for all future assessments and other correspondence from the Association. Provided, however, prior to the issuance by the Association of a Certificate indicating the Association's approval of the transaction, the purchaser or lessee shall be required to execute a copy of the Rules and Regulations of THE GARDEN VILLAS AT GATOR TRACE OF ST. LUCIE acknowledging that he takes title subject to and agrees to abide by the Rules and Regulations. The Association shall then retain one signed copy in the Association's records and furnish one copy to the purchaser or lessee.

6.7.3 Except as provided in subparagraph 6.9.5 - below, it is not the intention of this Article to grant to the Association a right of approval or disapproval of purchasers or lessees. It is, however, the intent of this Article to impose an

affirmative duty on the Unit Owners to keep the Association fully advised of any changes in occupancy or ownership for the purposes of facilitating the management of the Association's membership records. As this Article is a portion of the Declaration which runs with the Property, any transaction which is conducted without compliance with this Article may be voided by the Association.

6.7.4 Notwithstanding the provisions of subparagraph 6.7.3 above, in the event that a Unit Owner is delinquent in paying any assessment, or the Unit Owner or his buyer, family, guests, agents, licensees or invitees are not in compliance with any provisions of this Declaration, the Association has the right to disapprove any sale; and the case of lease, the right to disapprove of and to void any lease at any time prior to or during the leasehold tenancy until any violation of any provision of this Declaration is corrected.

## ARTICLE 7

### INSURANCE

7.1 Purchase of insurance. To the extent reasonably available, the Association shall obtain comprehensive master general public liability and property and casualty damage insurance covering all of the Common Area. Said policies and endorsements shall be deposited with the Insurance Trustee (as hereinafter defined) who must first acknowledge that the policies and any proceeds thereof will be held in accordance with the terms and conditions hereof.

7.2 Cost and Payment of Premiums. The cost of obtaining all insurance hereunder, excluding the insurance that may be purchased by individual Lot Owners on the contents of their respective Units, is declared to be a Common Expense, as are any other fees or expenses incurred which may be necessary or incidental to carry out the provisions hereof.

7.3 Coverage. To the extent reasonably available, the following coverage shall be obtained by the Association:

7.3.1 Casualty and Property Damage. The Common Areas and all other insurable improvements thereon (including all personal property owned by the Association) shall be insured in an amount equal to the maximum insurable current replacement value thereof of like kind or quality (as determined annually by the Association in consultation with the insurance company providing the coverage) with respect to improvements similar in construction, that the insured will not be a co-insurer except under deductible clauses required to obtain coverage at a reasonable cost.

A. The coverage will EXCLUDE the following:

- (i) Land, foundations, excavations-or - other items that are usually excluded from insurance coverage; and
- (ii) Any increase in the value of a Unit as a result of special improvements, alterations and betterments not common to comparable Units.

B. The coverage will INCLUDE the following:

- (i) Loss or damage by fire or other hazards covered by a standard extended coverage endorsement;
- (ii) All other perils customarily covered for similar types of projects, including those covered by the standard all risk endorsement;

(iii) Agreed Amount and Inflation Guard Endorsement, when it can be obtained;

(iv) Demolition Cost Endorsements, Contingent Liability from Operation of Building Laws Endorsement, and Increased Cost of Construction Endorsement; and

(v) A standard mortgagee clause naming, when appropriate, the Federal National Mortgage Association (FNMA) of the services for mortgages held by FNMA, their successors and assigns.

C. When appropriate and possible, the policies shall waive the insurer's right to:

(i) Subrogation against the Association and against the Unit Owners, individually and as a group, and their respective, guests, invitees, agents and assigns;

(ii) The pro rata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; and

(iii) Avoid liability for a loss that is caused by an act of the Board, or by a member of the Board or by one or more Unit Owners.

7.3.2 Comprehensive general public liability and property damage insurance in such an amount and in such form as shall be required by the Association in limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) for bodily injury or death to any person; not less than THREE MILLION DOLLARS (\$3,000,000.00) for bodily injury or death resulting from any one accident or occurrence, and not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) for property damage. Said coverage shall include, but not limited to, water damage, legal liability, hired automobile, non-owned automobile, and off-premises employee coverage.

7.3.3 Workmen's compensation policies shall be obtained to meet the requirements of law.

7.3.4 Flood insurance, shall be obtained to meet the requirements of federal, state or local law; of any regulations enacted pursuant to federal, state or local law.:

7.3.5 Such other insurance as the Board of the Association may determine to be necessary from time to time.

(Item 7.4 intentionally left blank.)

7.5 Association as Agent. The Association *is* irrevocably, appointed agent for each Lot Owner, to adjust all claims rising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

7.6 Nature of Reconstruction. Any reconstruction included hereunder shall be substantially in accordance with the plans and specifications of the original improvements subject to modification to conform with the then current governmental restrictions and codes, if necessary, and *in* compliance with the Architectural Criteria for THE GARDEN VILLAS AT GATOR TRACE OF ST. LUCIE.

7.7 Assessments if the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction by the Association, or if, at any time during reconstruction or upon completion of reconstruction, the funds available for the payment of the costs of reconstruction are insufficient, assessments shall be made against all Lot Owners in sufficient amounts to provide funds for the payment of such costs. Such assessments on account of damage to the Common Areas or Unit shall be assessed against each Lot Owner pursuant to the provisions of this Declaration.

(Item 7.8 intentionally left blank.)

7.9 Authority of Association. In all instances herein, except when a vote of the membership of the Association is specifically required, all decisions, duties and obligations of the Association under this article may be made by the Board. The Association and its Members shall jointly and severally be bound thereby.

## ARTICLE 8

### MORTGAGEE'S RIGHT OF ACCESS

All mortgagees shall have a right of access across all Common Areas for the purpose of ingress and egress to any and all Lots and/or Units, and other properties upon which they hold a mortgage.

(Article 9 intentionally left blank.)

## ARTICLE 10

### ENFORCEMENT OF RESTRICTIONS, COVENANTS, RULES AND REGULATIONS

10.1 **Compliance by Owners.** Every Owner shall comply with the restrictions and covenants set forth herein and any and all Rules and Regulations from time to time adopted by the Board of Directors of the Association.

10.2 **Enforcement.** Failure of the Owner to comply with such restrictions, covenants, or Rules and Regulations shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief or any combination thereof, including costs and attorney's fees incurred in bringing such actions, and if necessary, costs and attorneys' fees for appellate review. The Association shall have the right to suspend voting rights and use the Common Areas (except the private streets, sidewalks and driveways from time to time located on the Common Areas and Recreation Area) as more particularly provided in Paragraph 4.4 hereof. The Association shall have the right to apply to the maximum extent those remedies allowed it under the laws and statutes of the State of Florida.

10.3 **Fines.** In addition to all other remedies, in the sole discretion of the Board of Directors in cases allowed by the statutes and laws of the State of Florida, a fine or fines may be imposed upon an Owner and/or any tenant, guest, or invitee of an Owner or tenant for failure of an Owner, his family, guests, invitees, tenants, or other employees to comply with any covenant, restriction, rule or regulation contained herein or promulgated pursuant hereto. Fines shall be imposed in accordance with the procedures set forth in Chapter 720, Florida Statutes, as may be amended from time to time.

10.3.1 **Payment of Fines.** Fines shall be paid within the timeframe set forth in Chapter 720, Florida Statutes, as may be amended from time to time.

10.3.2 **Collection of Fines.** Fines shall be treated as an assessment otherwise due to the Association.

10.3.3 **Application of Fines.** All monies received from fines shall be allocated as determined by the Board of Directors.

10.3.4 **Non-exclusive Remedy.** The imposition of fines pursuant hereto shall not be construed to be an exclusive right or remedy, and the right to impose such fines shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled in order to accomplish the correction of the non-compliance in order; provided, however, that any fine paid by the offending Owner shall be deducted from or offset against any damages that the Association may otherwise be entitled to recover by law from such Owner.

10.3.5 **When the laws and statutes of the State of Florida differ from the procedure described above, the Board of Directors will adopt and follow those procedures allowed by the State of Florida. Such procedures will automatically become part of these Declarations.**

ARTICLE 11  
AMENDMENTS

(Item 11.1 intentionally left blank.)

11.2 Amendment by Owners. After the Completion Date, this Declaration may be amended only with the consent of (a) eighty percent (80%) of all Owners, and (b) a two-thirds (2/3) vote of the entire Board. The aforementioned consents must be in writing and shall be affixed to the amendment to this Declaration.

(Item 11.3 intentionally left blank.)

(Item 11.4 intentionally left blank.)

(Item 11.5 intentionally left blank.)

11.6 Effective Date. Any amendment to this Declaration shall become effective upon the recordation thereof in the Public Records of St. Lucie County, Florida.

(Article 12 intentionally left blank.)

ARTICLE 13  
ARCHITECTURAL CONTROL

13.1 Necessity of Architectural Review and Approval. No structure, addition, alteration, landscaping or improvement whatsoever of any kind or nature shall be commenced, erected, placed or maintained upon any Lot/Unit, or the Property without written approval by the Board of Directors. In order to receive such approval, the Owner may be required to first present plans and specifications to the Board.

13.2 Architectural Review Board. The architectural review and control functions of the Association may be administered and performed by an Architectural Review Board (the "ARB"). The ARB shall consist of at least three (3) members who need not be members of the Association who are appointed by, shall serve at the pleasure of the Board of Directors. The Board of Directors may also serve and act in place of the ARB.

13.3 Powers and Duties of the ARB. The ARB shall have the following powers and duties:

A. (Item 13.3 A intentionally left blank.)

B. When the Board deems appropriate, to require submission to the ARB of two (2) complete sets of the plans and specifications, and a complete color palette, for any improvement or structure of any kind. The ARB may also require submission of samples of building materials proposed for use on any Unit and may require such additional information as reasonably be necessary for the ARB to completely evaluate the proposed structure of improvement.

C. To approve or disapprove any improvement or alteration, addition, landscaping, or structure of any kind, including without limitation, any painting, fence, screen enclosure, sewer, drain, disposal system, decorative building, landscape device or object, or other improvement or change or modification thereto, the construction, erection, performance or placement of which is proposed upon any Lot/Unit in THE GARDEN VILLAS AT GATOR TRACE OF ST. LUCIE and to approve or disapprove any exterior additions, changes, modifications or alterations therein

or thereon. All decisions of the ARB shall be submitted in writing to the Board of Directors of the Association, and evidence thereof may, but need not, be made by a certificate, in recordable form, executed under seal by the President or any Vice President of the Association. Any party aggrieved by a decision of the ARB shall have the right of a written request to the Board of Directors of the Association, within thirty (30) days of such decision, for a review thereof. The determination of the Board upon reviewing any such decision shall in all events be final.

D. To adopt a schedule of reasonable fees for processing requests for ARB approval of proposed improvements. Such fees, if any, shall be payable to the Association, in cash at the time that plans and specifications are submitted to the ARB.

E. In the event any structure or any addition, alteration or improvement to any structure is made or constructed or placed upon the Property without the prior written approval of the ARB, the ARB shall have the right to demand that such structure or such addition, alteration or improvement to such structure be removed and the Lot or Unit be restored to its original condition at the sole cost and expense of the Owner(s) responsible. If Owner(s) fails to remove the structure or addition, alteration or improvement to structure, and restore the Lot or Unit to its original condition within twenty (20) days after the giving of written notice by the ARB, demanding such removal and restoration, the ARB may, at its option, in addition to any other rights and remedies available to it, cause such structure, addition or alteration to be removed and the premises restored at the sole cost, expense and risk of such Owner(s). The ARB, its contractors, agents and employers, shall have the right to enter upon the Lot and/or Unit at all reasonable times for the purposes of performing such removal and restoration. If such Owner(s) fails to pay the costs and expenses of such removal and restoration within twenty (20) days after written demand therefore, the ARB may assess the amount of such costs and expenses against such Lot. All of the provisions of the Declaration which generally apply to special assessments shall apply to any special assessment imposed by the ARB subject to the provisions of this paragraph, including the imposition of a lien and the entitlement to attorneys' fees and costs.

#### ARTICLE 14

##### GENERAL PROVISIONS

14.1 Indemnification. The Association covenants and agrees that it shall indemnify, defend and hold harmless the Association's officer and members of the Board, from and against any- and all claims, suits, actions, causes of action and/or damages arising from any personal injury, loss of life and/or damage to property sustained on or about the Property or other property serving the Association, or resulting or arising out of the operation of the Association and improvements thereof and thereon, or resulting from or arising out of activities or operation of the Association. The cost and expenses of fulfilling this covenant of indemnification set forth in this paragraph shall be a common expense to the extent such matters are not covered by the Association's insurance.

(Item 14.2 intentionally left blank.)

14.3 Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association, and any Owner, their respective legal representatives, heirs, successors, and assigns, for an initial period to expire on the thirtieth (30th) anniversary of the date of recordation of this Declaration. Upon the expiration of said initial period, this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial period, or during the last year of any subsequent ten (10) year renewal period, eighty percent (80%) of the votes cast at a duly held meeting of Members of the Association vote in favor of terminating this Declaration at the end of its then current term.

It shall be required that written notice of any meeting at which such proposal to terminate this Declaration is to be considered, shall be given at least forty-five (45) days in advance of said meeting. In the event that the Association votes to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Association, the total number of votes required to constitute a quorum at such meeting of the Association, the number of votes necessary to adopt a resolution terminating this Declaration, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. Said certificate shall be recorded in the Public Records of St. Lucie County, Florida, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

14.4 Notice. Any notice required to be sent to any Owner under the provisions of this Declaration shall be delivered either personally or by first class mail. If mailed it shall be deemed to be delivered when deposited in the United States Mail addressed to the owner at the address as it appears in the records of the Association, with postage prepaid.

14.5 Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding provided herein or by any proceeding at law or in equity against any person or persons violating at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the property to enforce any lien created by these covenants and restrictions. Any failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

14.6 Severability. Invalidation of anyone or more of the covenants, restrictions or provisions of this Declaration by judgment or court order shall in no way affect any other covenants, restrictions and provisions are hereby declared to be severable and shall remain in full force and effect.

14.7 Captions. The captions used in this Declaration are inserted solely as a matter of convenience and shall not be relied upon and/or used in construing the effect or meaning of the text of this Declaration.



(Item 14.8 intentionally left blank.)

14.9 Context. Whenever the context so requires, any pronoun used herein shall be deemed to mean the corresponding masculine, feminine or neuter form thereof and the singular form of any nouns and pronouns herein shall be deemed to mean the corresponding plural form thereof and vice versa.

14.10 No Implied Waiver. The failure of the Association, the Board of Directors or any Owner to object to an owners, or other party's failure to comply with any covenant, restriction or provisions contained herein shall in no event be deemed a waiver of any such covenant, restriction or provision.

14.11 Termination of Declaration. Should the Members of the Association vote not to renew and extend this Declaration as provided for herein, all Common Areas owned by the Association at such time shall be transferred to a Trustee appointed by the Circuit Court of St. Lucie County, Florida, which Trustee shall sell the Common Areas free and clear of the limitations imposed hereby upon terms established by the Circuit Court of St. Lucie County, Florida. The proceeds of such sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Areas, then for the payment of any obligations incurred by the Trustee in the operation, maintenance, repair and upkeep of the Common Areas. The excess of proceeds, if any, from Common Areas shall be distributed among Owners in proportion to the share such Owners bear of Common Expense.

(Item 14.12 intentionally left blank.)

14.13 Additional Rights of Institutional Lenders. Institutional Lenders (as hereinbefore defined) shall have the right to make insurance premium payments on insurance policies carried by the Association for the benefit of the Association and the Owners in connection with the maintenance of the Common Areas in the event the Association fails to make said payments. The Association shall be liable to said Institutional Lenders for any insurance premium payments made by said Lender. In addition, Institutional Lenders shall have the right to cure defaults of the Association in connection with the Association's obligations under this Declaration. Actions undertaken by Institutional Lenders to cure such defaults shall be made at the Association's expense.

14.14 Conflicts. In the event of an inconsistency or conflict between this Declaration and Articles and By-Laws of the Association, the provisions of this Declaration shall supersede, govern and control. In the event of any inconsistency or conflict between this Declaration and the Declaration of Covenants and Restrictions for any Neighborhood within the Properties, the provision of this Declaration shall supersede, govern and control.

14.15 Master Association. In addition to Membership in the Association, all Owners shall automatically be Members of the Master Association pursuant to the Master Declaration. The purpose of the Master Association is to provide for preservation and maintenance of property owned or served by the Master Association and to promote the health, safety and

welfare of all Property Owners subject to the jurisdiction of the Master Association. Pursuant to the provisions of the Master Association, the Master Association has the right to levy assessments against Owners and to secure payment of said assessments by lien against all Owners' Estates.

Such Master Declaration should be consulted for more detail regarding membership in the Master Association and the governing body of the Master Association. The Master Declaration of Covenants and Restrictions for GATOR TRACE, which are applicable hereto, recorded in the Public Records of St. Lucie County in O.R. Book 519 at Page 594 through 61 This Association is a sub-association established pursuant to Article 5 of the referenced Master Declaration of Covenants, Conditions and Restrictions of GATOR TRACE.

This Amended and Restated Declaration was approved by 80% of all Owners and by 2/3rds of the Board of Directors. Said approvals are by written consent and are attached here

IN WITNESS WHEREOF, this Declaration of Covenants and Restrictions for THE GARDEN VILLAS AT GATOR TRACE OF ST. LUCIE has been executed by the Association on the day and year first above set forth.

WITNESSES AS TO PRESIDENT:

THE GARDEN VILLAS AT GATOR TRACE OF ST. LUCIE HOMEOWNER'S ASSOCIATION, INC

*[Signature]*  
Print Name: Harriet Scott  
*[Signature]*  
Print Name: AGNES K. MICAL  
*Treasurer*

By: *[Signature]*  
Robbie Craswell, President

STATE OF FLORIDA  
COUNTY OF ST. Lucie

The foregoing instrument was subscribed, sworn and acknowledged before me by means of physical presence or  online notarization, by Robbie Craswell, as President The Garden Villas at Gator Trace of St. Lucie Homeowner's Association, Inc.,  who personally known to me, or  who has produced \_\_\_\_\_ identification on MARCH 24, 2022.

Notarial Seal



ELIZABETH STEWART  
Commission # G0 338242  
Expires May 18, 2023  
Bonded Through Notary Public Services

*[Signature]*  
Notary Public  
Print Name: Elizabeth ST.  
My Commission Expires: MA

WITNESSES AS TO SECRETARY:

THE GARDEN VILLAS AT GATOR  
TRACE OF ST. LUCIE HOMEOWNER'S  
ASSOCIATION, INC.

Agnes K. Mical  
Print Name: AGNES K. MICAL  
TREASURER  
Harriet Scott  
Print Name: Harriet Scott  
Vice President

By: Sean M. Kelly  
Sean M. Kelly Secretary



STATE OF FLORIDA  
COUNTY OF St. Lucie

The foregoing instrument was subscribed, sworn and acknowledged before me by means of ~~physical presence of~~ [ ] online notarization, by Sean Kelly, as Secretary The Garden Villas at Gator Trace of St. Lucie Homeowner's Association, Inc., [ ] who ~~personally known to me~~ or [ ] who has produced \_\_\_\_\_ identification on March 24, 2022, 2022.

Notarial Seal



ELIZABETH STEWART  
Commission # GG 888342  
Expires May 19, 2025  
Bonded Title Broker, Kelly Services

Elizabeth Stewart  
Notary Public  
Print Name: Elizabeth STE  
My Commission Expires: AAE