

Instrument prepared by
and after recording return to:
Jennifer A. Nichols, Esq.
Roetzel & Andress
850 Park Shore Drive
Naples, FL 34103
(239) 649-6200

(space above this line for recording)

CERTIFICATE OF AMENDMENT

THE UNDERSIGNED, being the duly elected and acting President and Secretary of Hideaway Beach Association, Inc., a Florida corporation not for profit, do hereby certify that at a duly called special members meeting held on April 15, 2020, at which a quorum was established, after due notice was mailed and posted on February 26, 2020, the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions of Hideaway Beach as set forth on Exhibit "1" was approved and adopted by the required vote of the membership.

The total number of votes of the Members of Hideaway Beach Association, Inc. is 623.50. The total number of votes required to constitute a quorum at a members' meeting of the Association is thirty percent (30%). The number of votes necessary to adopt an amendment to the Declaration is sixty percent (60%) of the total eligible voting interest of the Association voting in person or by proxy.

The Second Amended and Restated Declaration was voted on by members in sections, with the understanding that the sections that received the requisite approval vote would be incorporated into the Second Amended and Restated Declaration as set forth on Exhibit "1." The votes of the membership were as follows:

Amendments to Declaration	Yes Votes for Residential Lots	Yes Votes for Condominium Units	Total Yes Votes	Total No Votes
Second Amended and Restated Declaration (Updates)	176	288	464	6
Article III, Sections 3 &4	173	285	458	12
Article IV, Section 7	168	282	450	21
Article VI, Section 11	167	257	424	45
Article IX, Section 2	162	265	427	42

The Declaration of Covenants, Conditions and Restrictions of Hideaway Beach was originally recorded at O.R. Book 963, Pages 1735 et seq, and Restated at O.R. Book 3031, Page 1374, et. seq., all of the Public Records of Collier County, Florida.

HIDEAWAY BEACH ASSOCIATION, INC.
(SEAL)

[Signature]
Witness Signature

Mike Crabbe
Print Name

[Signature]
Witness Signature

Shawne Johnson
Print Name

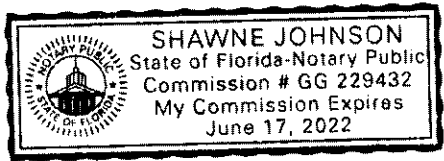
[Signature]
Claire Babrowski, President

Date: 4/16/2020

STATE OF Florida
COUNTY OF Collier

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 16 day of April 2020 by Claire Babrowski, President of Hideaway Beach Association, Inc., a not-for-profit corporation, on behalf of the corporation. She is personally known to me or who has produced (type of identification) _____, as identification.

[Signature]
Notary public
Printed name: Shawne Johnson
Serial Number: GG 229432
My commission expires: June 17, 2022



ATTEST:

[Signature]
Witness Signature
Mike Chaffee
Print Name

Louis Rana
Louis Rana, Secretary

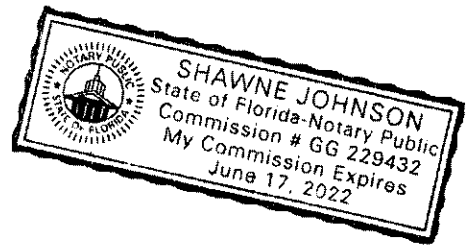
Date: 4/16/2020

[Signature]
Witness Signature
Shawne Johnson
Print Name

STATE OF Florida
COUNTY OF Collier

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 16 day of April 2020 by Louis Rana, Secretary of Hideaway Beach Association, Inc., a not-for-profit corporation, on behalf of the corporation. He is personally known to me or who has produced (type of identification) _____ as identification.

[Signature]
Notary public
Printed name: Shawne Johnson
Serial Number: GG 229432
My commission expires: June 17, 2022



**SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
OF
HIDEAWAY BEACH**

EXHIBIT "1"

NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE DECLARATION. FOR PRESENT TEXT SEE EXISTING DECLARATION.

SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS
OF
HIDEAWAY BEACH

This Second Amended and Restated Declaration of Covenants, Conditions and Restrictions is made by HIDEAWAY BEACH ASSOCIATION, INC., a Florida not for profit corporation, hereinafter referred to as the "Association". The original Declaration of Covenants, Conditions and Restrictions of Hideaway Beach was recorded in Official Record Book 963, pages 1735 et. seq., of the Public Records of Collier County, Florida. After the recording of that Declaration, the Restated Declaration of Covenants, Conditions and Restrictions of Hideaway Beach was recorded in Official Records Book 3031, Page 1374, Public Records of Collier Country, Florida. That Restated Declaration of Covenants, Conditions and Restrictions of Hideaway Beach is hereby amended and is restated in its entirety. The land subject to this instrument is legally described in Exhibit "A" attached hereto. The covenants and restrictions contained in this instrument shall run with the land legally described in Exhibit "A" attached hereto and be binding upon and inure to the benefit of all present and future Owners of Lots in Hideaway Beach. The acquisition of title to property or any other interest in Hideaway Beach or the lease, occupancy, or use of any portion of a Lot or Unit constitutes an acceptance and ratification of all provisions of this instrument as amended from time to time, and an agreement to be bound by its terms.

By adoption of this Second Amended and Restated Declaration of Covenants, Conditions and Restrictions, the members of the Association ratify governance of the property known as Hideaway Beach, under the provisions of this Second Amended and Restated Declaration of Covenants, Conditions and Restrictions, and the Exhibits hereto, and in accordance with Chapter 720, Florida Statutes (the "Act").

ARTICLE I.
DEFINITIONS

Section 1. The following words and terms when used in the Declaration or any Supplemental Declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

A. "Association" shall mean and refer to the Hideaway Beach Association, Inc., a Florida non-profit corporation, its successors and assigns.

B. "Hideaway Beach" shall mean the planned unit development known as "Hideaway Beach" and includes the real property described in Exhibit "A" hereto and, when added in accordance with the terms and conditions hereof, shall include such real property as is in the future subjected to this Declaration or any Supplemental Declaration under the provisions of Article II hereof.

C. "Common Property" shall mean and refer to those tracts of land, together with any improvements thereon, which are actually deeded or if a majority of the Board of Directors determines that a particular leasehold should be deemed Common Property, leased to the Association. The term "Common Property" shall also include any recreational facilities located on the said tracts of land, such as the golf course and beach club. Any land which is leased by the Association for use as Common Property, shall lose its character as Common Property upon the expiration of such lease. "Common Property" shall not mean or include any Condominium Unit or Residential Lot the Association acquires by foreclosure of its

claim of lien for unpaid assessments or by deed in lieu of foreclosure of its claim of lien for unpaid assessments and held by the Association for resale absent a specific contrary determination by a majority of the Board of Directors. Prior to acquisition or conveyance to the Association a majority of the Board of Directors may determine that any tract of land, improvement thereon or portion of either shall not be deemed Common Property.

D. "Condominium Unit" shall mean and refer to any condominium unit located within HIDEAWAY BEACH and intended for use as a single-family residence. Two or more adjacent and abutting condominium units, which have been physically combined into one single-family residence as determined by the Board of Directors of the Association in its sole discretion and which are subject to a Unity of Title Agreement, shall be treated as a single "Condominium Unit" for all purposes by the Association, including voting and assessments due to the Association starting with assessments for the calendar year following the calendar year during which the foregoing conditions have been satisfied, but in no event prior to 1993. By way of example, if all of the conditions are satisfied in 1992 or earlier, then the combined Condominium Units would be assessed as a single Condominium Unit for assessments for the year 1993 and subsequent years. If all the foregoing conditions are satisfied during 1993, then the combined Condominium Units would be assessed as a single Condominium Unit for assessments for the year 1994 and subsequent years. Two or more Condominium Units treated as a single Condominium Unit by the Association shall continue to be treated as separate Condominium Units by the applicable condominium association for all purposes including voting and assessments.

Notwithstanding anything to the contrary in this Declaration, on and after April 21, 2010, the combining of two or more adjacent and abutting Condominium Units into one single family residence shall be subject to the approval of the Board of Directors. Upon satisfying these conditions of a "Unity of Title Agreement" shall be treated as a single "Condominium Unit" by the Association for all purposes except that for purposes of voting and assessments they shall continue to be treated by the Association as separate Condominium Units.

E. "Residential Lot" shall mean any parcel of land located within HIDEAWAY BEACH which is intended for use as a site for, or is being used as, a single-family detached dwelling. One Residential Lot plus a fraction or all of an adjacent and abutting platted Residential Lot or Residential Lots, which have been improved with one Completed Single-Family Residence and which are subject to a Unity of Title Agreement, shall be treated as a single "Residential Lot" for all purposes by the Association, including voting and assessments due to the Association starting with assessments for the calendar year following the calendar year in which the foregoing conditions have been satisfied, but in no event prior to 1993. By way of example, if all of the conditions are satisfied in 1992 or earlier, then the combined Residential Lots (or Residential Lot plus a portion of another Residential Lot) would be assessed as a single Residential Lot for assessments for the year 1993 and subsequent years. If all of the foregoing conditions are satisfied during 1993, then the combined Residential Lots would be assessed as a single Residential Lot for assessments for the year 1994 and subsequent years. The Board of Directors of the Association shall determine, in its sole discretion, whether a guest house in addition to the main house would be a second single-family detached dwelling.

A New Lot which has been improved with one Completed Single-Family Residence and which is subject to a Unity of Title Agreement, shall be treated as a single "Residential Lot" for all purposes by the Association, including voting and assessments due the Association starting with the calendar year following the calendar year in which the foregoing conditions have been satisfied. A New Lot which does not satisfy these requirements shall continue to be treated as the number of Residential Lots comprising the New Lot and shall have such voting rights appurtenant thereto and be assessed accordingly. When a New Lot

includes a portion of a Residential Lot, that portion shall be deemed to be one-half (½) of a Residential Lot. For Example, if such New Lot consists of one (1) Residential Lot and a portion of another Residential Lot, then the Owner of such New Lot shall be entitled to one and one-half (1½) votes for membership voting of the Association and be assessed one and one-half (1½) annual assessments by the Association. However, the Owner of a portion of a Residential Lot shall not have any other membership privileges for such ownership.

Notwithstanding anything to the contrary in this Declaration, on and after April 21, 2010, the combining of a "Residential Lot" with adjacent and abutting "Residential Lot or Lots" (or a fraction of a Residential Lot) into a fewer number of "Residential Lots" shall be subject to the approval of the Board of Directors of the Association and the terms and conditions of a "Unity of Title Agreement" approved by the Board of Directors. Upon satisfying these conditions, such New Lot or Lots shall be treated by the Association as combined for all purposes except that for purposes of voting and assessments the New Lot or Lots shall continue to be treated by the Association as the same number of Residential Lots that comprise the New Lot or Lots.

F. "Owner" shall mean and refer to the owner, as shown by the real estate records in the office of the Clerk of the Circuit Court of Collier County, Florida, whether it be one or more persons, firms, associations, corporations, or other legal entities, of fee simple title to any Residential Lot or Condominium Unit located within HIDEAWAY BEACH. Owner shall not mean or refer to the mortgagee, or holder of a security deed, its successors or assigns, unless and until such mortgagee has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner.

G. "Voting Member" shall mean and refer to all those Owners who are Voting Members of the Association as provided in Article III hereof.

H. "Board of Directors" means the Board of Directors of the Association.

I. "Articles" means the Articles of Incorporation of the Association.

J. "By-Laws" means the By-Laws of the Association.

K. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions and include the same as it may, from time to time, be amended.

L. "Institutional Lender" shall mean and refer to the owner and holder of a mortgage encumbering any part or all of HIDEAWAY BEACH, which owner and holder of said mortgage shall either be a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust, building and loan association, mortgage banking company licensed to do business in the State of Florida, or any subsidiary thereof licensed or qualified to make mortgage loans in the State of Florida or a national banking association chartered under the laws of the United States of America or any 'secondary mortgage market institution' including the Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation and such other secondary mortgage market institutions as the Board shall hereafter approve in writing; any pension or profit sharing funds qualified under the Internal Revenue Code; or the Veterans Administration or the Federal Housing Administration or the Department of Housing and Urban Development or other lenders generally recognized in the community as an institutional lender.

M. "Condominium Association" shall mean and refer to the corporate entity responsible for the operation of any condominium located in HIDEAWAY BEACH.

N. "Affiliate Member" shall mean a person other than an Owner who has satisfied the conditions established by the Board of Directors for use of certain facilities located within the Common Property as established from time to time by the Board.

O. "Unity of Title Agreement" shall mean a recorded agreement, approved by the Board of Directors of the Association, still in full force and effect and not in default between the Association and the Owner of two or more adjacent and abutting (±) (i) platted lots; or (ii) condominium units in HIDEAWAY BEACH which requires that said lots or condominium units always conveyed, leased and encumbered together.

A "Unity of Title Agreement" shall also mean a recorded agreement still in force and effect and not in default between the Association and the owner of a New Lot which requires that the New Lot always be conveyed, leased and encumbered in its entirety.

P. "Completed Single-Family Residence" shall mean a single-family detached dwelling and appurtenances thereto which have been constructed and completed in accordance with requirements of the Architectural Review Committee as evidenced by written approval from the Architectural Review Committee and a Certificate of Occupancy from Collier County, Florida.

Q. "New Lot" shall mean any one of the new lots which are created when adjacent and abutting Residential Lots are reconfigured into a lesser number of new lots without re-platting. For example, three Residential Lots could be reconfigured into two New Lots.

R. "PUD Ordinance" means County Ordinance 92-11 which provides for the Hideaway Beach Planned Unit Development and any amendments to such ordinance.

S. "Lease" means the grant by an Owner of a temporary right of use of the Owner's Complete Single-Family Residence or Condominium Unit for valuable consideration. The term "Lease" shall also include arrangements such as those facilitated by Airbnb, FlipKey, VRBO, HomeAway, or similar sites, regardless of whether the arrangements are classified or described as something other than a lease. Owners are prohibited from leasing an unimproved Lot.

ARTICLE II.
PROPERTY SUBJECT TO DECLARATION

Section 1. Hideaway Beach. The real property which shall be held, transferred, sold, conveyed, given, donated, leased and/or occupied subject to this Declaration shall include the real property described in Exhibit "A", attached hereto, together with any and all other real property which may be subjected in the future to the conditions of this Declaration.

ARTICLE III.
MASTER ASSOCIATION

Section 1. Membership. Subject to the other Sections of this Article III, every owner shall be a Voting Member of the Association, and by acceptance of a deed or other instrument evidencing his ownership interest, each Owner accepts his membership in the Association, acknowledges the authority of the Association as herein stated, and agrees to abide by and be bound by the provisions of this or any

supplementary Declaration, the Articles of Incorporation, the By-Laws and other rules and regulations of the Association.

Section 2. Change of Membership. Change of membership shall be established by recording in the Public Records of Collier County, Florida, a deed or other instrument conveying record fee title to any Residential Lot or Condominium Unit, together with approval of such conveyance by the Association in accordance with Section 3 of this Article III, if such approval is required by this Article III. The owner designated by such instrument thus becomes a Member of the Association, and the membership of the prior owner shall be terminated. The interest, if any, of a Member in the funds and assets of the Association shall not be assigned, hypothecated or transferred in any manner except as an appurtenance to his real property. Membership in the Association by all Owners shall be compulsory and shall continue until such time as the Owner transfers or conveys of record his interest in the real property upon which his membership is based or until said interest is transferred or conveyed by operation of law, at which time the membership shall automatically be conferred upon the transferee. Membership shall be appurtenant to, run with, and shall not be separated from the real property interest upon which membership is based.

Section 3. Sale.

A. The Association shall have the option to purchase or lease any Residential Lot or Condominium Unit upon the same terms and conditions as are offered by any Member to any third person.

(i) At least thirty (30) days prior to the sale, rental, lease or transfer of any Unit to any person other than the transferor's spouse or member of his immediate family or wholly owned corporation, the Owner shall notify the Board of Directors in writing of the name and address of the person to whom the proposed sale, rental, lease, or transfer is to be made, the terms and conditions thereof together with a copy of the purchase agreement or lease and such other information as may reasonably be required by the Board of Directors. Failure to do so shall be deemed a breach hereof, and any sale, rental, lease or transfer in contravention of this Section 3 shall be null and void and confer no right, title or interest to the intended purchaser, lessee or transferee.

(ii) Within twenty (20) days after its receipt of said notice and such supplemental information as it may reasonably require, the Board of Directors shall either approve or disapprove the proposed sale, rental, lease or transfer, in writing, and shall promptly notify the owner of its decision. Failure of the Board of Directors to act within said twenty (20) day period shall be the equivalent of its consent and may be established by means of an affidavit attached to the deed conveying the Residential Lot or Condominium Unit being sold. Approval of the sale, rental, lease or transfer shall be stated in a certificate executed by the President or Vice President of the Association, which shall be recorded in the Public Records of Collier County, Florida, by and at the expense of the purchaser, lessee or transferee and if there be any other expenses reasonably incurred by the Association in connection with such transaction, said expense shall also be borne and paid to the Association by the purchaser, lessee or transferee.

B. Disapproval.

(1). With Good Cause. Approval of the Association shall be withheld for good cause only if a majority of the whole Board of Directors so votes, after receiving a written opinion of counsel that good cause exists. Only the following may be deemed to constitute good cause for disapproval:

(a) The person seeking approval (which shall include all proposed occupants) has been convicted of a felony involving violence to persons or property, possession or sale of a controlled substance, or any sexual offense of any nature;

(b) The person seeking approval (which shall include all proposed occupants) has been labeled a sexual offender or a sexual predator by any governmental or quasi-governmental agency regardless of when so labeled;

(c) The persons seeking approval has a history of disruptive behavior or disregard for the rights or property of others as evidenced by conduct in other social organizations or associations, or by his conduct in other residences as a tenant or owner;

(d) The person seeking approval has a history of financial irresponsibility, including without limitation prior bankruptcies, foreclosures or bad debts; or

(e) The person seeking approval has failed to provide the information, fees or interviews required to process the application in a timely manner, or provided false information during the application process.

(2). Without Good Cause. The Association's Board of Directors shall not have the authority to disapprove a sale, lease or transfer unless good cause exists on the limited grounds set forth in Article III, Section 3.B, (1) above.

Section 4. Rental or Lease.

A. No Condominium Unit or Completed Single-Family Residence shall be leased without the prior written approval of the Board of Directors. The Board of Directors shall have the right to require that a substantially uniform form of lease be used. No lease shall be for a period of less than thirty (30) days; the proposed lessees shall consist of not more than two (2) persons per bedroom in the Condominium Unit or Completed Single-Family Residence to be leased; no Condominium Unit or Completed Single-Family Residence shall be leased more than once in any twelve (12) month period; provided, however, that such Condominium Unit or Completed Single-Family Residence may be leased one additional time if the prior written approval of the Board is obtained. Owners are prohibited from advertising on Airbnb, FlipKey, VRBO, HomeAway, or other similar websites, for a lease term in violation of the restrictions set forth in this Section. Notwithstanding the lease of his Condominium Unit or Completed Single-Family Residence, the liability of the owner under this declaration shall continue. To prevent overtaxing the facilities, an Owner whose Condominium Unit or Completed Single-Family Residence is leased may not use the facilities at HIDEAWAY BEACH during the lease term.

The Board of Directors must either approve or disapprove a lease within twenty (20) days after its receipt of the notice and information required as set forth in Section 3.A, (i) above. If approved, a Certificate of Approval shall be executed by the Association at the expense of the lessee. If the Board of Directors fails to give the owner written notice of its approval of the proposed lease within the foregoing twenty (20) day period, its failure to give such notice shall be the equivalent of its consent.

B. Disapproval.

(1). With Good Cause. Approval of the Association shall be withheld for good cause only if a majority of the whole Board of Directors so votes, after receiving a written opinion of counsel that good cause exists. Only the following may be deemed to constitute good cause for disapproval:

(a) The person seeking approval (which shall include all proposed occupants) has been convicted of a felony involving violence to persons or property, possession or sale of a controlled substance, or any sexual offense of any nature;

(b) The person seeking approval (which shall include all proposed occupants) has been labeled a sexual offender or a sexual predator by any governmental or quasi-governmental agency regardless of when so labeled;

(c) The persons seeking approval has a history of disruptive behavior or disregard for the rights or property of others as evidenced by conduct in other social organizations or associations, or by his conduct in other residences as a tenant or owner; or

(d) The person seeking approval has failed to provide the information, fees or interviews required to process the application in a timely manner, or provided false information during the application process.

(2). Without Good Cause. The Association's Board of Directors shall not have the authority to disapprove a lease unless good cause exists on the limited grounds set forth in Article III, Section 4.B,(1) above.

C. Should any Residential Lot or Condominium Unit at any time become subject to an Institutional Lender's mortgage, the holder thereof, upon becoming the Owner of said Residential Lot or Condominium Unit through foreclosure, deed in lieu of foreclosure or other means, shall have the unqualified right to sell, lease or otherwise transfer said Residential Lot or Condominium Unit, including the fee ownership thereof, without prior offer to or approval of the Board of Directors, the provisions of the foregoing subparagraphs being inapplicable thereto, except that the Association shall be advised in writing of the closing date or effective date and term of the lease and shall also be provided with the name(s) of the purchaser or lessee.

Section 5. Death. In the case of the death of the Owner of a Residential Lot or Condominium Unit, the surviving spouse, if any, and if no surviving spouse, the other member or members of such Owner's family residing with the Owner at the time of Owner's death, may continue to occupy the said Residential Lot or Condominium Unit; and if such surviving spouse or other member or members of the decedent Owner's family shall have succeeded to the ownership of the Residential Lot or Condominium Unit, the ownership thereof shall be transferred by legal process to such new Owner. In the event said decedent shall have conveyed or bequeathed the ownership of decedent's Residential Lot or Condominium Unit to some designated person or persons other than the surviving spouse or members of decedent's family, as aforescribed, or if some other person is designated by such decedent's legal representative to receive the ownership of the Residential Lot or Condominium Unit, or if under the laws of descent and distribution of the State of Florida the Residential Lot or Condominium Unit descends to some person or persons other than his surviving spouse or members of decedent's family as aforescribed, the Board of Directors shall, within thirty (30) days from the date the Association is placed on actual notice of the said devisee or descendant, express its refusal or acceptance of the individual or individuals so designated as owners of the Residential Lot or Condominium Unit. If the Board of Directors shall consent, ownership of a Residential Lot or Condominium Unit may be transferred to the person or persons so designated, who shall thereupon

become the Owner of the Residential Lot or Condominium Unit, subject to the provisions of this Declaration and the By-Laws of the Association. If, however, the Board of Directors shall refuse to consent, then the members of the Association shall be given an opportunity, during thirty (30) days next after said last abovementioned thirty (30) days, to purchase or to furnish a purchaser, for cash, for the said Residential Lot or Condominium Unit, the purchase price to be determined by an appraiser appointed by the senior judge of the Circuit Court in and for Collier County, Florida, upon twenty (20) days' notice, on petition of any party in interest. The expense of appraisal shall be paid by the said designated person or persons or the legal representative of the deceased Owner out of the amount realized from the sale of said Residential Lot or Condominium Unit. In the event the then Members of the Association do not exercise the privilege of purchasing or furnishing a purchaser of said Residential Lot or Condominium Unit within such period, and upon such terms, the person or persons so designated may take title to the Residential Lot or Condominium Unit or such person or persons or the legal representative of the deceased Owner may sell the said Residential Lot or Condominium Unit; but such sale shall be subject in all other respects to the provisions of this Declaration and the By-Laws of the Association.

Section 6. Mortgage. No Residential Lot or Condominium Unit Owner may mortgage the said property or any interest therein without the approval of the Association, except to an Institutional Lender or to an Owner who takes back a purchase money mortgage in connection with the sale of his Residential Lot or Condominium Unit.

Section 7. Sale or Lease Void. Any sale, mortgage or lease not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

Section 8. Screening Fee. There shall be deposited and delivered to the Association, a reasonable screening fee not to exceed \$100.00 plus sales tax thereon, simultaneously with the giving of notice of intention to sell or lease, for the purpose of compensating the Association for the time and expense involved in the screening process. No charge shall be made in connection with an extension or renewal of a lease.

Section 9. Inter-Family Transfers. The foregoing provisions of this Article III shall not be applicable to transfer by an Owner to any member of Owner's immediate family (i.e., spouse, children, or parents); or if a property is owned by a form of co-tenancy, to transfer from one co-tenant to the other co-tenant.

Section 10. Breach of Declaration. The Board of Directors shall have the right to withhold consent and approval of prospective unit owners or lessees, to any lease, sale, transfer, conveyance, bequest, devise or otherwise in the event the prospective Owner or lessee, by being such an Owner or lessee, would automatically violate or breach a term, condition, restriction, rule or regulation or covenant under this Declaration or the Exhibits thereto.

Section 11. Exemptions from Application of Article III. The foregoing provisions of this Article III shall not apply to a transfer to or purchase by an Institutional Lender that acquires its title as a result of owning a mortgage upon the property concerned, and this shall be so whether the title is acquired by deed from the mortgagor, mortgagor's successor or assigns, or through foreclosure proceedings.

Section 12. Voting Rights. The number of votes which may be cast on all matters on which the membership is entitled to vote shall be determined as follows:

A. Each Member shall be entitled to cast one (1) vote for each Residential Lot or Condominium Unit owned by said Member.

B. When any property entitling the Owner to membership in the Association is owned of record in the name of two (2) or more persons or entities, whether fiduciaries, joint tenants, tenants in common, tenants in partnership or in any other manner of joint or common ownership, or if two (2) or more persons or entities have the same fiduciary relationship respecting the same property, then the vote for such membership shall be cast by the person designated in a Voting Certificate signed by all of the Owners (or the proper corporate officer) of said property, filed with the Secretary of the Association. In the absence of such a writing, such vote shall not be counted except that a Voting Certificate shall not be required when a Residential Lot or Condominium Unit is owned by a husband and his wife only.

Section 13. Board of Directors. The Association shall be governed by a Board of Directors as provided in the Articles or By-Laws of the Association. Currently, the Board consists of nine (9) directors, who are serving staggered three (3) year terms.

Section 14. Quorum Required for Any Action Authorized at Regular or Special Meetings of the Association. The quorum required for any action which is subject to a vote of the Members at any meeting of the Association shall be as is provided in the Articles or By-Laws of the Association except as is specifically provided in this Declaration.

Section 15. Proxies. All members of the Association may vote and transact business at any meeting of the Association by Proxy as provided in the By-Laws of the Association.

Section 16. Multiple Owners and Corporate Ownership. When a Residential Lot or Condominium Unit is owned by two (2) or more persons other than a husband and wife, by a corporation or by a general or limited partnership, trustee or other legal entity, the Owner shall notify the Association in writing of not more than two (2) persons who will be occupying the Residential Lot or Condominium Unit as permanent residents. The permanent residents so designated by such entity shall be subject to the occupancy and use restrictions set forth in this Declaration and shall be deemed the Owner for purposes of determining the person(s) entitled to use the Common Property pursuant to Section 1 of Article VI of this Declaration.

ARTICLE IV.
FUNCTIONS OF MASTER ASSOCIATION

Section 1. Required Services. The Association shall provide the following services:

A. Maintenance and operation of all Common Property in accordance with the rules, regulations and standards adopted by the Association from time to time. The Association shall adopt standards of cleanup, landscaping, maintenance and operation required by this and other subsections within this Section 1 which are, at the very least, as stringent as those adopted and/or followed by other developments similar to HIDEAWAY BEACH, and located in the State of Florida.

B. The purchase and maintenance of general liability and hazard insurance covering improvements and activities on the Common Property, including coverage against loss or damage by fire, sprinkler damage, vandalism, windstorm or water, comprehensive public liability insurance, flood insurance, and to the extent such insurance is deemed desirable and is reasonably obtainable fidelity insurance against acts on the part of officers, directors and employees of the Association.

C. To establish the Architectural Review Committee (as hereinafter defined).

D. Any services which the PUD Ordinance requires the Association to perform with respect to the Common Areas.

Section 2. Authorized Discretionary Services. The Association is empowered, in its discretion, but not required, to

A. provide or retain others to provide any other services reasonably related to the duties of the Association as set forth in this Declaration and in the Articles and By-Laws;

B. to provide in whole, or in part by way of contribution, or retain others to provide, for the maintenance, protection, restoration or other improvement of conservation areas and/or real property owned by the Association or as to which the Association has been granted an easement for the benefit of its Members or as to which its Members have a right of use; or

C. to maintain, restore and improve, or retain others to do so, in accordance with the requirements of the PUD Ordinance, a conservation area constituting part of the common elements of a Condominium if the failure of the Condominium Association administering such Condominium to comply with such requirements as to such area exposes the Association to liability to a governmental entity or others and to obtain reimbursement from such Condominium Association for the Association's cost for such maintenance, restoration, improvement and liability.

Section 3. Obligation of the Association. The Association shall only be obligated to carry out the functions and services specified in this Article to the extent such maintenance and services can be provided with the proceeds first from annual assessments and then, if necessary, from special assessments.

Section 4. Mortgage and Pledge. The Board of Directors of the Association shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association in performing its functions.

Section 5. Condominium Documents. All documents in connections with the establishment or operation of a condominium or Condominium Association, including but not limited to the declaration of condominium, bylaws and articles of incorporation of the Condominium Association, and the rules and regulations of the Condominium Association, shall be subject to the terms of this Declaration and any documents in connection herewith. Each and every such declaration of condominium shall state that the condominium property and the condominium unit owners are subject to the terms and provisions of this Declaration and that in the event of a conflict between the provision of the declaration of condominium and this Declaration, the provisions of this Declaration shall control, provided, however, that a declaration of condominium and other condominium documents may contain provisions more restrictive than contained in this Declaration or the Articles and By-Laws or Rules and Regulations of the Association.

Section 6. The following rules and standards shall apply to HIDEAWAY BEACH and shall be enforced by the Association pursuant to Article XI, Section 5 hereof:

A. Antennas; Flags. Antennas and satellite dishes are prohibited, except that (a) antennas or satellite dishes designed to receive direct broadcast satellite service which are one (1) meter or less in diameter (b) antennas or satellite dishes designed to receive video programming services via multi-

point distribution services which are one (1) meter or less in diameter; or (c) antennas or satellite dishes designed to receive television broadcast signals, ("Reception Device") shall be permitted, provided that the Reception Device is located so as not to be visible from outside the Lot or Unit, or is located on the side or rear yard of the Lot. The Association or ARC may require that a Reception Device be painted or screened by landscaping in order to blend into the Lot or Unit and to the maximum extent feasible, removed from view from the street and other Lots or Units. A flagpole shall not be used as an antenna. The installation and display of flagpoles and flags shall be subject to regulation by the Association or ARC, but no Owner shall be prevented from displaying a portable, removable United States flag or official flag of the State of Florida in a respectful manner, a portable, removable US Army, Navy, Air Force, Marine Corps or Coast Guard flag not larger than 4.5' x 6'. Notwithstanding the foregoing, no one shall be permitted to display the United States flag in a manner that violates: (i) Federal law or any rule or custom as to the proper display or use of the United States flag; or (ii) any reasonable restriction pertaining to the time, place and manner of displaying the flag. The restriction must be necessary to protect a substantial interest of the Association.

B. Underground Wires. All telephone, electric and other wires of all kinds must be underground from the poles or the underground transmission cables located within the platted utility easements to the building or use connection.

C. Pets. Dogs and cats, (maximum of two (2) of each) provided they are not kept, bred or maintained for any commercial purpose, may be kept on the property. No other animals, livestock, or poultry of any kind, shall be kept, raised or bred on any part of HIDEAWAY BEACH.

D. General Appearance.

(i) Clotheslines or drying yards shall be so located as not to be visible from the streets, or adjoining properties.

(ii) Outside garbage and rubbish disposal facilities shall be either underground or in garbage bins, fully enclosed, covered and screened.

(iii) No weeds, underbrush (other than indigenous growth), or other unsightly growths shall be permitted to grow or remain upon any part of the premises and no refuse pile or unsightly objects shall be allowed to be placed or remain anywhere thereon.

(iv) No indigenous tree or shrub shall be removed without first obtaining approval of the Board of Directors. The Owner shall preserve the existing natural habitat by limiting the clearing of vegetation and selecting indigenous plant species.

(v) No noxious or offensive activity shall be carried on upon HIDEAWAY BEACH, or upon any part, portion or tract thereof, nor shall anything be done thereof which may be or become a nuisance or an annoyance to the neighborhood.

(vi) No commercial vehicles, recreational vehicles, trucks, trailers, boats or boat trailers, shall be parked overnight on any part of HIDEAWAY BEACH except by any Owner of a Residential Lot and his contractors or agents during the construction of a residence and appurtenant improvements upon such Residential Lot provided the prior written consent of the Board has been obtained. Notwithstanding the foregoing, boats docked in a permitted docking area and boats, boat trailers and recreational vehicles (either covered or uncovered) wholly contained within an enclosed garage or other

enclosed structure so as not to be visible from the exterior of such structures, streets or adjoining properties shall be permitted.

(vii) Two (2) off-street parking spaces shall be provided on each Residential Lot.

E. Drainage. No changes in the elevations of the lands shall be made which will interfere with the drainage, adversely affect existing vegetation, or otherwise cause undue hardship to adjoining property.

Section 7. Capital Improvements. The Board of Directors cannot authorize or implement any new non-emergency capital improvements or major renovations of the facilities on the Common Property in any calendar year, at a reasonably estimated cost, the sum of which would exceed thirty percent (30%) of the annual budgeted revenues in the aggregate for such calendar year, unless first approved by a majority of the voting interests of the Association present, in person or by proxy, and voting at a duly called meeting. A new non-emergency capital improvements or major renovations shall not include the expenditure of monies to maintain, protect or preserve the Common Property or the restoration of Common Property necessitated by casualty loss.

Section 8. Common Property. A vote of the Members of the Association will not be required for the Association to grant utility easements on Association property to any public agency, authority or utility by action of a majority of the Board of Directors.

Section 9. Non-Common Property. The Association shall have the right to sell and convey or otherwise dispose of its property, other than Common Property, including but not limited to a Condominium Unit or Residential Lot and tangible and intangible personal property:

- (i) upon approval of a majority of the Board of Directors; or
- (ii) upon approval of an employee or agent of the Association who has been delegated such authority by a majority of the Board of Directors; or
- (iii) in the case of routine disposal of personal property of the Association, upon approval of an employee or agent of the Association in the normal course of his duties.

ARTICLE V. EASEMENTS

Section 1. Appurtenant Easements. The owner of each Condominium Unit and Residential Lot, their family members, guests, lessees and invitees, has as an appurtenance to the ownership of fee title interest to same and subject to this Declaration, the Articles and By-Laws of the Association and the rules and regulations promulgated by the Association, a perpetual nonexclusive easement for ingress and egress over, across and through the Common Property and for the use and enjoyment of all recreational facilities, located within the Common Property, such use and enjoyment to be shared in common with the other Owners of Condominium Units and Residential Lots, their family members, guests, lessees and invitees.

Section 2. Utility Easement. The Association, its successors or assigns, has an easement upon, over, under and across HIDEAWAY BEACH for the purpose of maintaining, installing, repairing, altering and operating sewer lines, water lines, water works, sewer works, force mains, lift stations, water mains, sewer mains, water distribution systems, sewage disposal system, effluent disposal system, pipes,

valves, gates, pipelines, and all machinery and apparatus appurtenant thereto as may be necessary for the installation and maintenance of utilities servicing all Owners of Condominium Units and Residential Lots and servicing the Common Property. All such easements are of a size, width and location so as to minimize and not unreasonably interfere with the use of any improvements which are now, or will be, located upon said property.

Section 3. Service Easement. There exists a service easement to delivery, pickup and fire protection services, police and other authorities of the law, United States mail carriers, representatives of electrical, telephone, cable television and other utilities authorized to service HIDEAWAY BEACH, and to such other persons as the Association from time to time may designate, the nonexclusive, perpetual right of ingress and egress over and across the Common Property for the purpose of performing their authorized services and investigation.

Section 4. Extent of Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

A. The right of the Association, in accordance with its By-Laws, to borrow money from any lender for the purpose of improving and/or maintaining the Common Property and providing the services authorized herein, and, in aid thereof, to mortgage said properties;

B. The right of the Association, as provided in its By-Laws, to suspend the rights and easements of enjoyment of any Member or any tenant of any Member for any period during which any assessment remains unpaid, and for any period, for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any assessment or breach of any rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligation to pay the assessment, provided, however, that the Association shall not suspend the right to use any roads belonging to the Association subject, however, to the rules and regulations of the Association for such use;

C. The right of the Association to charge reasonable admission and other fees for the use of the recreational facilities;

D. The grantee of each interest in real property which is subject to this Declaration is conveyed only a limited and restricted right of access, ingress and egress to such real property. Such grantee shall have a right of access, ingress and egress to such real property only over roadways now or hereafter to be conveyed to the proper municipality or Collier County or the Association. The Board of Directors of the Association shall have the power to place any reasonable restrictions upon the use of any roadways owned by the Association including, but not limited to, the maximum and minimum speeds of vehicles using said roads, all other necessary traffic and parking regulations, and the maximum noise levels of vehicles using said roads. The fact that such restrictions on the use of such roads shall be more restrictive than the laws of any state or local government having jurisdiction over HIDEAWAY BEACH shall not make such restrictions unreasonable.

E. The right of the Association to grant easements upon or give, dedicate or sell all or to any part of the Common Property (including leasehold interest therein) to any public agency, authority, or utility or private concern for such purposes and subject to such conditions as may be provided by Section IV, 8 of this Declaration and the Articles and By-Laws of the Association.

Section 5. Easement for Affiliate Members. The Association hereby grants to each Affiliate Member subject to this Declaration, the Articles and By-Laws of the Association and the Rules and

Regulations promulgated by the Association, a nonexclusive easement for ingress and egress over, across and through the Common Property and for the use and enjoyment of all recreational facilities located within the Common Property which such Affiliate Member is entitled to use.

ARTICLE VI. ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligations of Assessments. Each Owner of any Residential Lot or Condominium Unit shall be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay to the Association: (1) annual assessments (2) special assessments and (3) individual assessments, all fixed, established and collected from time to time as hereinafter provided. The annual, special and individual assessments together with such interest thereon, late fees, and costs of collection, including attorney's fees and costs, shall be a charge and continuing lien on the real property and improvements thereon against which each such assessment is made. Each such assessment, together with such interest, late fees, cost of collection, attorney's fees and costs, shall also be the personal obligation of the person who was the Owner of such real property at the time when the assessment first became due and payable. The liability for assessments may not be avoided by waiver of the use or enjoyment of any Common Property or by the abandonment of the property against which the assessment was made. In the case of co-ownership of a Residential Lot or Condominium Unit, all of such co-Owners shall be jointly and severally liable for the entire amount of the assessment.

Section 2. Purpose of Annual Assessments. The annual assessments levied by the Association shall be used exclusively for the improvement, maintenance, enhancement, acquisition and operation of the Common Property, the Association's property and other property in accordance with Article IV hereof and to provide services which the Association is authorized or required to provide including, but not limited to, the payment of taxes and insurance thereon, construction of improvements, repair, replacement, payment of the costs to acquire labor, equipment, materials, management and supervision, necessary to carry out its authorized functions, and for the payment of principal, interest and any other charges connected with loans made to or assumed by the Association for the purpose of enabling the Association to perform its authorized or required functions and for any other proper expense of the Association. The Association may establish reserve funds from its annual assessments to be held in reserve in an interest-drawing account or investments as a reserve for (a) renovation, improvements or major repairs to the Common Property, and (b) for emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss.

Section 3. Annual Budget. The Association shall prepare an annual budget not less than thirty (30) days in advance of the commencement of each fiscal year which shall project the estimated general expenditure for the services set forth in Section 2 above for the forthcoming year. The Association shall, at the same time as it prepares the annual budget, prepare a schedule which sets forth the amount of the annual assessment for each Owner.

Section 4. Proportion and Amount of Annual Assessments. Annual and special assessments for property Owners shall be determined as follows:

The amount of each annual and special assessment payable by each Owner shall be determined by multiplying the budget or expenditure amount by a fraction, the numerator of which is equal to the number of Residential Lots and Condominium Units owned by such Owner, and the denominator of which is equal to the total number of all Residential Lots and Condominium Units owned by all Owners.

Annual assessments shall be due and payable to the Association in full on January 1st of the year for which the assessments are made, or as directed by the Board.

Special and individual assessments shall be payable to the Association in the amount, in the manner and within the payment period as set forth in the resolution of the Board of Directors levying a special or individual assessment.

Section 5. Purpose of Special Assessments. In addition to the annual assessments authorized by Section 4 hereof, the Association may levy special assessments to pay for unexpected, unanticipated or nonrecurring expenditures by the Association. These expenditures may include, but are not limited to, the acquisition of any Common Property, including the payment of any mortgages thereon, defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of capital improvement upon the Common Property including the necessary fixtures and personal property related thereto, to provide for the necessary facilities and equipment to offer the services authorized in Article IV and to repay any loan made to the Association to enable it to perform the duties and functions authorized herein. To the extent that annual assessments are insufficient to fund the services set forth in Article IV of this Declaration, the Association may levy a special assessment to cover the cost thereof.

Section 6. Individual Assessments. Each Owner of a Condominium Unit or Residential Lot is required to maintain his property, whether improved or unimproved, in a state of good repair at all times, which shall include, but shall not be limited to, the periodic painting (or other appropriate refinishing) of all structures requiring same and the maintenance of the lawns, shrubbery, and trees in a well-groomed and trimmed condition, and if unimproved, in an orderly and uncluttered condition. Such Owners are further required to maintain their property in accordance with any other covenants, conditions and restrictions to which their deeds or other instruments of conveyance make reference. In the event of the failure of such Owner(s) to maintain their property as required herein, the Association, after first giving thirty (30) days' notice to such Owner(s), may take such steps as are necessary to remedy any defective and/or unsightly conditions or comply with requirements imposed herein, and such Owner(s) of said property shall be assessed for the expense of same. Entry upon such Owners' Property for such purposes shall not constitute a trespass. Assessments may also be levied against such Owner(s) for any damage to Common Property which may be caused by such Owner(s), their families, lessees, guests or invitees.

Section 7. Effect of Non-Payment of Assessment: Lien. If the assessment is not paid within thirty (30) days after the due date specified in Section 4 hereof, then such assessment shall become delinquent and shall, together with interest thereon at the rate of 18% per annum or the highest rate permitted by law, whichever is higher, from the due date, cost of collection and reasonable attorney's fees and costs incident to collection, become a charge and continuing lien on the land and all improvements thereon, against which each such assessment is made, in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. Each such Assessment, together with late fees, interest, costs of collection and reasonable attorneys' fees and costs, which includes those resulting from appellate proceedings, shall be the personal obligation of the Owner of the Residential Lot or Condominium Unit at the time such Assessment came due and any dues and unpaid Assessments shall also be the personal obligation of each subsequent Owner of the Residential Lot or Condominium Unit. Each Owner, by acceptance of a deed for a Residential Lot or Condominium Unit, personally covenants and agrees to pay any such obligation due prior to or during the time of his ownership and such personal obligation survives any conveyance. No diminution or abatement of Assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action the Association takes or does not take.

Section 8. Remedies.

A. The continuing lien is considered a restriction running with the land and shall be perfected and effective upon recordation of a Claim of Lien in the Collier County Public Records but shall relate back to the date of recording of the original Declaration of Covenants, Conditions and Restrictions of Hideaway Beach. However, as to first mortgages of record, the lien is effective from and after recording of a Claim of Lien in the Public Records of Collier County, Florida. The Claim of Lien secures all unpaid assessments which are due, and which may accrue after the Claim of Lien is recorded and through the entry of a final judgment, as well as late fees, interest and all reasonable costs and attorney's fees incurred by the Association incident to the collection process. Upon full payment, the person making the payment is entitled to a satisfaction of the lien. The Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property in the manner provided for in the Act. This lien is superior to any homestead rights the Owner may acquire. No Owner may exempt himself from personal liability for Assessments, or release the Lot owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Association Property, or by abandonment of his Lot or Residential Unit. The Claim of Lien may be executed by either an officer of the Association or its legal counsel. The Association may file a Claim of Lien against a Lot for unpaid assessments after written notice or demand for past due assessments as well as any other amounts owed to the Association has been made by the Association. The written notice or demand must (i) provide the Owner with 45 days to make payment for all amounts due, including, but not limited to, any attorney's fees and actual costs associated with the preparation and delivery of the written demand; and (ii) be sent by registered or certified mail, return receipt requested, and by first-class U. S. mail to the Owner at his/her last address as reflected in the records of the Association, if the address is within the U. S., and to the address of the Lot if the Owner's address as reflected in the records of the Association is not the Lot address. If the Owner's address is outside the U. S., the Association may send the notice to that address and to the Lot address via first-class U. S. mail. A Claim of Lien shall secure payment of all Assessments due at the time of recording (including interest, late fees, costs and attorney's fees as provided above), as well as all Assessments, interest, late fees, costs and attorney's fees coming due subsequently, until the Claim of Lien is satisfied, or a final judgment of foreclosure obtained. Any payment received by the Association and accepted shall be applied first to any interest accrued, then to any late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent Assessment. The preceding sentence applies notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment.

B. Collection of Assessments. If any Owner fails to pay any Assessment within thirty (30) days after the due date, the Association shall have any or all of the following remedies, to the extent permitted by law, which remedies are cumulative and are not in lieu of, but are in addition to, all other remedies available to the Association.

(3). To charge interest on such Assessment, from the date it becomes due until paid at the highest rate allowed by law, as well as to impose a late payment fee equal to the greater of: (i) Twenty-five Dollars (\$25.00); or (ii) five percent (5%) of each delinquent installment payment of the Assessment. This late fee shall not be considered a fine and the procedural requirements for levying fines set forth therein shall not apply.

(4). To deny Association approval of any proposed lease of the Owner's Lot and Residential Unit.

(5). To file an action in equity to foreclose its lien. The lien may be foreclosed by an action in the name of the Association in the manner provided pursuant to Section 720.3085 of the

Act, as the same may be amended from time to time. Such action may not be brought until 45 days after the Owner has been provided notice of the Association's intent to foreclose and collect the unpaid amount. The Owner may make a qualifying offer pursuant to the requirements of Section 720.3085 of the Act. The Association may purchase the Lot at the foreclosure sale or by deed in lieu of foreclosure and hold, lease, mortgage, or convey the Lot.

(6). To bring an action at law for money judgment against the Owner without waiving any lien foreclosure rights of the Association.

(7). If an Owner is delinquent for more than ninety (90) days in paying any monetary obligation due to the Association, the Association has the right to levy reasonable fines, or may suspend the Owner's right to use common areas or common facilities until the monetary obligation is paid, except for those portions of common areas used to access the Lot or Residential Unit, utility services, or parking. Any such fines or suspension shall be imposed in accordance with the requirements of the Act.

(8). If an Owner is delinquent for more than 90 days in paying any monetary obligation due to the Association, to suspend the voting rights of a Member until the monetary obligation is paid.

(9). As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid and after thirty (30) days' prior written notice to the applicable Owner and the recording of a claim of lien, the Association may declare any Assessment installments due for the remainder of the budget year in which the claim of lien was filed to be accelerated and immediately due and payable.

(10). Upon an Owner's default in the payment of Assessments, the Association may immediately, and without notice, suspend an Owner's charge privileges. Charge privileges include the ability of an Owner to charge food, beverage, merchandise and services of the Association to the Owner's account. This suspension of charge privileges is not a suspension of the right to use common areas and facilities as set forth in the Act and Subsection (B)(5) above.

(11). If a Lot is occupied by a tenant and the Owner is delinquent in paying any obligation due to the Association, the Association may make written demand on the tenant to pay directly to the Association the future monetary obligations related to the Lot, and the tenant must make such payment. Such demand shall be continuing in nature and the tenant must continue to pay the monetary obligations until the Association releases the tenant or the tenant discontinues its tenancy, provided that the tenant shall not be liable for any increase in monetary obligations due unless the tenant was notified in writing of the increase at least ten (10) days before the date on which rent is due. If the tenant fails to make such payment the Association may sue for eviction under Sections 83.59-83.65, Florida Statutes, as if the Association were a landlord thereunder, however, the Association is not otherwise considered a landlord under Chapter 83 of the Florida Statutes and shall have no duties thereunder.

Section 9. Mortgage Foreclosure. Mortgagee of a first mortgage acquiring title to a Residential Lot or Condominium Unit at the public sale resulting from a foreclosure judgment in a foreclosure suit in which the Association has been initially named as a defendant junior lienholder, or by deed in lieu of foreclosure, shall be liable for the share of common expenses or assessments attributable to the Lot or Unit, which came due prior to the mortgagee's acquisition of title, to the fullest extent provided by the Act, as the same may be amended from time to time, plus attorney fees and costs of collection. Any unpaid share of common expenses for which such acquirer is exempt from liability becomes a common

expense collectible from all Unit Owners. No acquirer of title to a condominium parcel by foreclosure, or by a deed in lieu of foreclosure, may be excused from the payment of any assessments coming due during the period of such ownership. Third party purchaser acquiring title to a Residential Lot or Condominium Unit at the public sale shall be responsible for all unpaid assessments, common expenses and other charges, including interest, late fees, attorney's fees and costs

Section 10. Exempt Property. The following property, individuals, partnerships or corporations, subject to Declaration shall be exempted from liability for the assessment, charge and lien created herein:

- A. The grantee in conveyances made for the purpose of granting utility easements;
- B. All Common Property;
- C. Property which is used for the purpose of maintenance and service of facilities within HIDEAWAY BEACH.

Section 11. Capital Contribution. The Association may levy a Capital Contribution upon the purchaser or transferee in any conveyance of a Unit and/or Lot by an Owner. The amount of the Capital Contribution shall be established and amended by the Board of Directors by resolution; provided, however, all Lots and/or Units similarly situated shall be assessed at a uniform rate. Unless subsequently adjusted by the Board, the amount of the Capital Contribution shall be initially set as \$5,000.00. The due date shall be the date of the closing of the conveyance. Payment of the Capital Contribution shall be the legal obligation of the purchaser or transferee. For purposes of this Section, the term "conveyance" shall mean the transfer of record legal title to a Unit and/or Lot by deed or other authorized means of conveyance, with or without valuable consideration, including, without limitation, as a result of the issuance of a certificate of title or deed in lieu of foreclosure or a transfer of possession and beneficial ownership by means of an agreement for deed. The following conveyances shall be exempt from payment of the Capital Contribution: (a) by a co-Owner to any person who was a co-Owner immediately prior to such conveyance; (b) to the owner's estate, surviving spouse or other heirs resulting from the death of the Owner; (c) to a trustee or the Owner's spouse, without a change in occupancy, solely for estate planning or for tax reasons; (d) to a transferee who is, at the time of transfer, a current Member of the Association; (e) to a transferee who is not currently a Member of the Association, but was a Member no more than twelve (12) months prior to the closing of the sale of the Residential Lot or Condominium Unit; or (f) to the Association pursuant to a final judgment of foreclosure or deed in lieu of foreclosure. As an example, without limiting the foregoing, the Capital Contribution shall be owed by a first mortgage holder or third party who obtains title to the property pursuant to a final judgment of foreclosure, foreclosure sale or deed in lieu of foreclosure. Upon a resale that occurs following an exempt sale described in (a) through (f) above, the Capital Contribution shall be due and payable. Capital Contributions shall be considered an assessment and can be collected as such in accordance with the provisions of this Article VI.

ARTICLE VII. ARCHITECTURAL CONTROL

Section 1. Architectural Review Committee (ARC). There is hereby established an Architectural Review Committee ("ARC") whose duties, powers and responsibilities shall be as hereinafter set forth:

A. The ARC shall consist of three (3) persons appointed by the Board of Directors for specific terms as designated by the Board. The Committee members may be removed during the course of their term by a majority of the Board, with or without cause.

B. The ARC shall have the right of specific approval of all architectural and landscaping aspects of any improvement or development of individual units or buildings as well as the general plan for development of any individual lot or subdivision within HIDEAWAY BEACH.

C. No building, sign, outside lighting, fence, hedge, wall, walk, dock or other structure or planting shall be commenced, erected, planted or maintained nor shall any addition to or any change or alteration therein 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. As part of the application process, two (2) complete sets of plans and specifications prepared by an architect, landscape architect, engineer or other person found to be qualified by the ARC shall be submitted for approval by written application on such form as may be provided or required by the ARC, together with a fee to cover the actual cost incurred by the ARC in reviewing such plans and specifications. Such fee shall be determined from time to time by the Board and shall not be refundable.

D. In the event the information submitted to the ARC is, in its opinion, incomplete or insufficient in any manner, it may request and require the submission of additional or supplemental information.

E. The ARC shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonably withheld. In approving or disapproving such plans and applications, the ARC shall consider the suitability of the proposed building, improvements, structure or landscaping and materials of which the same are to be built, the site upon which it is proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property.

F. Unless specifically excepted by the ARC, all improvements for which approval of the ARC is required under this Declaration shall be completed within a reasonable time from the date of commencement of said improvements or within the time set by the ARC in the event that the approval is so conditioned. If for any reason work is discontinued and there is no substantial progress toward completion for a continuous three (3) month period, then the ARC or Board of Directors shall notify the Owner and thereafter have the right in its discretion, to enter upon the premises and take such steps as may be required to correct an undesirable appearance. The Owner of a Residential Lot shall be liable for all costs incurred in taking such action and such costs shall be deemed an Individual Assessment and shall be collected as an Individual Assessment as provided for in Article VIII above.

G. The ARC shall in all cases have the right to determine and designate the building set back lines necessary to conform to the general plan of the land, in order to preserve the integrity of HIDEAWAY BEACH. In this respect, the ARC's judgment and determination shall be final and binding.

H. In the event the ARC shall fail to approve or disapprove any plans and specifications submitted in final and complete form, within thirty (30) days after written request for approval or disapproval is given to the ARC by the Owner or the Owner's agent or attorney, then such approval of the ARC shall not be required; provided, however, that no building or other structure shall be

erected or shall be allowed to remain which violates any of the covenants, conditions or restrictions contained in this Declaration, or which violates any zoning or building ordinance or regulation.

I. There is specifically reserved unto the ARC, the right of entry and inspection upon any lot, parcel or Unit for the purpose of determination by the ARC whether there exists any construction which violates the terms of any approval by the ARC or the terms of this Declaration or of any other covenants, conditions and restrictions to which its deed or other instrument of conveyance makes reference. The ARC is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy, and in the event it becomes necessary to resort to litigation to determine the propriety of any constructed improvement, or to remove any unapproved improvements, the prevailing party shall be entitled to recovery of all court costs, expenses and reasonable attorney's fees in connection therewith. The Association shall indemnify and hold harmless the ARC from all costs, expenses and liabilities including attorney's fees incurred by virtue of any member of the ARC's service as a member of the ARC.

J. The ARC is empowered to publish or modify from time to time, design and development standards for HIDEAWAY BEACH including but not limited to the following:

- (1). Roof.
- (2). Fences, walls and similar structures.
- (3). Exterior building materials and colors.
- (4). Exterior landscaping.
- (5). Exterior appurtenances relating to development and utility installations.
- (6). Signs and graphics, mail boxes and exterior lighting.
- (7). Building set backs, side yards and related height, bulk and design criteria.
- (8). Pedestrian and bicycle ways, sidewalks and pathways.
- (9). All buildings, landscaping and improvements on lands owned or controlled by the Association including recreational facilities.

K. No contractor, sub-contractor or other builder may affect any of the improvements herein discussed without the express written approval of the ARC, which permission may be withheld on the basis of the ARC's determination that such builder's qualifications and general reputation in the community indicate a potential caliber of work inferior to that deemed desirable by the ARC. The ARC may, from time to time, publish a list of builders it has in advance determined to be acceptable.

L. The ARC shall have the right to approve the location of family dwelling units on the lots in order to ensure that each family dwelling unit will be staggered so as to provide the maximum view to all other buildings and to preserve the large trees and other natural vegetation to the maximum extent possible. In this respect, the ARC's judgment and determination shall be final and binding.

M. The ARC does not assume any responsibility for the quality of construction and no obligation or liability relating to construction of any improvements shall result from the ARC's review or approval of any plans and specifications or other plan (collectively "Plans"). Furthermore, the ARC does

not evaluate Plans to determine whether the Plans satisfy all applicable governmental requirements nor does the ARC determine if improvements constructed pursuant to any Plans will be structurally sound, including but not limited to, whether or not the foundation plan is adequate for subsoil conditions, and the ARC does not assume any responsibility in this regard and no obligation or liability in this regard shall result from the ARC's review or approval of any Plans. No member of the ARC shall be liable to the Association or to any Owner or any other person or entity for any loss, damage, injury or expense arising out of or in any way connected with the performance of his duties hereunder, unless due to his willful misconduct.

N. Notwithstanding any other provisions of this Article IX:

(e) Any decision of the ARC may be appealed to the Board of Directors pursuant to rules established by the Board of Directors from time to time and decisions by the Board of Directors on such appeals shall be final and binding.

(f) As to the property owned by the Association, the functions of the ARC shall be advisory only and shall be rendered only at the request of the Board of Directors.

ARTICLE VIII. **INSTRUMENT OF CONVEYANCE**

Subsequent to the recording of this Declaration in the Public Records of Collier County, Florida, each and every deed (or other conveyance document) conveying the said lands or any part thereof shall, upon its face, expressly recite that said deed (or other conveyance documents) and conveyance is subject to the herein contained covenants, conditions and restrictions and shall recite the Official Records Book and page numbers wherein this Declaration is recorded in the Public Records of Collier County, Florida. These conditions shall be covenants running with the land, be a part thereof, and be binding upon the land and the owners thereof and their successors, successors-in-title, designees, grantees and assigns.

ARTICLE IX. **GENERAL PROVISIONS**

Section 1. Duration. The conditions of this Declaration shall run with and bind HIDEAWAY BEACH, and shall inure to the benefit of and be enforceable by the Association or the Owner of any real property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a period of thirty (30) years from the date this Declaration is recorded. Upon the expiration of said thirty (30) year 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 for an additional ten (10) year period; provided, however, and subject to existing laws and ordinances, that there shall be no renewal or extension of this Declaration if during the last year of the initial thirty (30) year period, or during the last year of any subsequent ten (10) year renewal period, three-fourths (3/4) 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, setting forth the fact that such a proposal will 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 a meeting of the Association, the number of votes necessary to adopt a resolution terminating this Declaration, and the total number of votes cast against such resolution. Said certificate shall be recorded in the Official Records of Collier County, Florida, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

Section 2. Amendments by Members. This Declaration may be amended at any time provided it is approved by two-third (2/3rds) of the voting interests of the Association present, in person or by proxy, and voting at a duly called members' meeting held during the months of November through April, provided, however, that if the affirmative vote required for approval of action under the specific provision to be amended is a higher or lower percentage, then such higher or lower percentage shall be required to approve the amendment of that provision. Notwithstanding the foregoing, the vote of any member not eligible to vote under Florida law shall not be considered or counted for any purpose whatsoever including but not limited to the computation of the total voting interests of the Association. Notice shall be given at least forty-five (45) days prior to the date of the meeting at which such proposed amendment is to be considered. If any proposed amendment to this Declaration is approved by the Members as set forth above, President and Secretary of the Association shall execute an Amendment to this Declaration which shall set forth the amendment, the date of the meeting of the Association at which such amendment 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 a meeting of the Association, the number of votes necessary to adopt the amendment, the total number of votes cast for the amendment from Owners of Residential Lots, from Condominium Units, and the combined total, and the total number of votes cast against the amendment. Such amendment shall be recorded in the Official Records of Collier County, Florida. All amendments shall become effective upon recording amongst the Public Records of Collier County, Florida.

Section 3. Notices. Any notice required to be sent to any Member or Owner under the provisions of the Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, with the proper postage affixed to the last known address of the person or entity who appears as Owner in the Public Records of Collier County, Florida, on the first day of the calendar month in which said notice is mailed. Notice to one of two or more co-Owners of a Residential Lot, or Condominium Unit, shall constitute notice to all co-Owners. It shall be the obligation of every Member to immediately notify the Secretary of the Association in writing of any change of address. Any person who becomes an Owner and Member following the first day in the calendar month in which said notice is mailed shall be deemed to have been given notice, if notice was given to his predecessor in title.

Section 4. Enforcement. Enforcement of these covenants, conditions and restrictions shall be by any proceeding at law or in equity and may be instituted by the Association, its successors or assigns, or any Owner against any person or persons violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and against the land and to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant, condition or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter.

Section 5. Severability. Should any covenant, condition or restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 6. Interpretation. The Board of Directors shall have the right except as limited by any other provisions of this document or the By-Laws to determine all questions arising in connection with this Declaration and to construe and interpret its provisions, and its good faith determination, construction or interpretation shall be final and binding. In all cases, the provisions of this Declaration shall be given that interpretation or construction that will best tend toward the consummation of the general plan of improvements.

Section 7. Authorized Action. All actions which the Association is allowed to take under this instrument shall be authorized actions of the Association if approved by the Board of Directors, unless the terms of this instrument provide otherwise.

Section 8. Non-Profit and Tax Exempt Status. Notwithstanding anything contained herein to the contrary, the Association will perform no act nor undertake any activity which will violate its nonprofit or tax-exempt status under applicable state or federal law.

Section 9. Use of Singular and Plural and Gender. Whenever the context so permits, the use of the singular shall include the plural and the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

Section 10. Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of HIDEAWAY BEACH.

EXHIBIT "A"

SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

Government Lot 5 in Section 6, Township 52 South, Range 26 East; also Government Lots 3, 4 and 5 in Section 7, Township 52 South, Range 26 East, Collier County, Florida, containing 211 acres, more or less, to apparent mean high water line on August 15, 1968.

Also described as HIDEAWAY BEACH, as recorded in Plat Book 12, Pages 80 through 85, inclusive, of the Public Records of Collier County, Florida.

AND

All of MARCO BEACH UNIT TWENTY-SIX, a subdivision in Sections 5 and 6, Township 52 South, Range 26 East, according to the plat thereof recorded in Plat Book 12, pages 92 through 94, inclusive, of the Public Records of Collier County, Florida. Containing 46.15 acres, more or less; and

Lots 1 and 2, Block 375 of MARCO BEACH UNIT TWELVE, according to the plat thereof recorded in Plat Book 6, Pages 87 through 91, inclusive, of the Public Records of Collier County, Florida; and

All of Tract "B" of MARCO BEACH UNIT TWELVE, according to the plat thereof recorded in Plat Book 6, Pages 87 through 91, inclusive, of the Public Records of Collier County, Florida;

LESS AND EXCEPT therefrom the following described parcel:

BEGIN at the Southwest corner of Tract "B", the same being the Northwest corner of Lot 1, Block 376 as shown on said plat of MARCO BEACH UNIT TWELVE; thence run S 88° 51' 46" E, along the northern lot line of said Lot 1, Block 376, for a distance of 100.00 feet to the Northeast corner of said Lot 1; thence run N 01° 08' 14" E, along the boundary line of said Tract "B", a distance of 50.00 feet; thence run N 88° 51' 46" W a distance of 100.00 feet to a point on the Easterly Right-of-Way Line of Kendall Drive as shown on said plat of MARCO BEACH UNIT TWELVE; thence run S 01° 08' 14" W, along said Right-of-Way Line, a distance of 50.00 feet to the Point of Beginning.

Also described in a Warranty Deed from The Deltona Corporation to Royal Marco Corporation, recorded in Official Records Book 861, Pages 1610 through 1614, inclusive, of the Public Records of Collier County, Florida.

AND

of Lot 1, Block 376, as shown on said plat of MARCO BEACH UNIT TWELVE and a portion of Tract "B" as shown on said plat of MARCO BEACH UNIT TWELVE more particularly described as follows:

BEGIN at the Northwest corner of the aforementioned Lot 1; thence go N 01° 08' 14" E, along the Easterly Right-of-Way line of Kendall Drive, as shown on said plat of MARCO BEACH UNIT TWELVE, for a distance of 50.00 feet; thence leaving said Right-of-Way line, go S 88° 51' 46" E, for a distance of 100.00 feet; thence go S 01° 08' 14" W, for a distance of 50.00 feet, to a point being common with the Northeast corner of said Lot 1; thence N 88° 51' 46" W, along the Northerly lot line of said Lot 1, for a distance of 100.00 feet, to the POINT OF BEGINNING.

Also described in a Warranty Deed from Joseph F. Meehan, Jr. to Hideaway Beach, Inc. recorded in Official Records Book 873, Pages 0366 and 0367, of the Public Records of Collier County, Florida.

EXHIBIT "B"

SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS

[MASTER PLAN OF HIDEAWAY BEACH]

Incorporated by reference to Exhibit "B" of Original Declaration made May 29, 1981.