Propsed Amended DOR from Attorney

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

AMENDED AND RESTATED DEED OF RESTRICTIONS OF COASTAL ESTATES, INC.

KNOW ALL MEN BY THESE PRESENTS that the original Deed of Restrictions of Coastal Estates were recorded in Official Record Book 1092, at Page 1197, *et seq.,* of the Public Records of Lee County, Florida. That Deed of Restrictions, as it has previously been amended, is hereby further amended and is restated in its entirety, as amended.

The land subject to this Deed of Restrictions (hereinafter "Coastal Estates" or the "Property") is legally described as:

> Coastal Estates, Recorded Subdivision, according to the Plat filed September 6, 1974, in Plat Book 29, at Page 77, of the Public Records of Lee County, Florida. The original Declaration of Conditions, Covenants, Charges, Restrictions and Reservations affecting property located in Coastal Estates was initially recorded at Official Records Book 1092, Page 1197, in the Records of Lee County, Florida, and amendment recorded at O. R. Book 1792, Page 0809; O. R. Book 1835, Page 3195; O. R. Book 1900, Page 0658; O. R. Book 2073, Page 1176; O. R. Book 2921, Page 2260; O. R. Book 2924, Page 1126; and Amendments to the Bylaws recorded at O. R. Book 2921, Pages 2261 through 2265.

No additional land is being added by this instrument and no land is being removed by this instrument. The covenants, conditions and restrictions contained in this Deed of Restrictions shall run with the land and be binding upon and inure to the benefit of all present and future owners. The acquisition of title to a Lot or any other ownership interest in the Property, or the lease, occupancy or use of any portion of a Lot or the Property, constitutes an acceptance and ratification of all provisions of this Deed of Restrictions as amended from time to time, and an agreement to be bound by its terms.

1. ASSOCIATION.

1.1 Membership. Every owner of a Lot shall be a member of the Association, and by acceptance of a deed or other instrument evidencing his ownership interest, each owner accepts

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 Deed of Restrictions, the Articles and Bylaws, and the rules and regulations of the Association, as amended from time to time.

1.2 Voting Rights. Voting rights are set forth in the Bylaws of the Association.

1.3 Articles of Incorporation. A copy of the Amended and Restated Articles of Incorporation of the Association is attached to this Deed of Restrictions as Exhibit "A".

1.4 Bylaws. A copy of the Amended and Restated Bylaws of the Association is attached to this Deed of Restrictions as Exhibit "B".

1.5 Powers and Duties. The powers and duties of the Association include those set forth in Chapters 617 and 720, Florida Statutes, and in the governing documents. The Association may contract, sue or be sued with respect to the exercise or non-exercise of its powers and duties. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the Common Areas. The Association has the power to enter into agreements to acquire leaseholds, memberships and other ownership, possessory, easement or use interests in lands or facilities for the use and enjoyment of the owners.

2. ASSESSMENTS. The provision of this section shall govern assessments payable by all owners of Lots, for the common expenses of the Association not directly attributable to one of the Lots.

2.1 Covenant to Pay Assessments. Each owner of a Lot by the act of becoming an owner covenants and agrees, and each subsequent owner of any Lot (including any purchaser at a judicial sale), by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association:

(A) The Lot owner's share of annual assessments based on the annual budget adopted by the Board of Directors of the Association;

(B) The Lot owner's pro rata share of special assessments for capital improvements or other Association expenditures not provided for by annual assessments;

(C) Any charges properly levied against individual Lot owner(s) ("Individual Assessments") without participation from other owners.

Assessments and charges shall be established and collected as provided herein and elsewhere in the governing documents. The owner of each Lot, regardless of how title was acquired, is liable for all assessments or installments thereon coming due while he is the owner. Multiple owners

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are jointly

and severally liable. Except as provided in Section 3.10 below, whenever title to a Lot is transferred

for any reason, the transferee is jointly and severally liable with the transferor for all unpaid assessments and charges against the transferor, regardless of when incurred, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee. No owner may waive or otherwise escape liability for the assessments and charges provided for herein by waiver or non-use of the Common Areas, by abandonment, or otherwise. Except as provided elsewhere in the governing documents as to Institutional Mortgagees, no owner may be excused from the payment of assessments unless all owners are similarly excused. Assessments and other funds collected by or on behalf of the Association become the property of the Association. No Lot owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his Lot. No owner can withdraw or receive distribution of his prior payments to the common surplus or Association reserves, except as otherwise provided herein or by law.

2.2 Purposes of Assessments. The assessments levied by the Association shall be used for the purposes of promoting the general welfare of the Lot owners and residents of Coastal Estates; to operate, maintain, repair, improve, construct, and preserve (on a non-profit basis) the Common Areas owned of the Association for the benefit of its members, their guests, tenants and invitees; and to perform all other duties and responsibilities of the Association as provided in the governing documents. Common expenses also include the funds necessary to provide reserve accounts for:

(A) renovation or major repairs to the Common Areas; and

(B) or emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss.

2.3 Share of Assessments, Regular, Special and Individual. The owners of each Lot shall be liable for a one-hundredth ($1/100^{th}$) share of the regular annual and special assessments levied by the Association for common expenses of the Association. All monetary fines assessed against an Owner pursuant to the governing documents, or any expense or charge of the Association attributable to or on behalf of an individual owner pursuant to the governing documents, shall be an Individual Assessment and shall become a lien against such owner's Lot which may be foreclosed or otherwise collected as provided herein.

2.4 Lien. The Association has a lien on each Lot for unpaid past due Association assessments, and charges, together with interest, late payment penalties, costs and reasonable attorney fees incurred by the Association in enforcing this lien. The lien is perfected by recording a Claim of Lien in the public records of the county, which Claim of Lien shall state the

description of the property encumbered thereby, the name of the record owner, the amounts then due and the dates when due. The Claim of Lien must be signed and acknowledged by an officer or agent of the Association. The lien shall continue in effect until all sums secured by said lien have been fully paid, and the lien satisfied or discharged. The Claim of Lien shall secure all unpaid assessments, fines and charges, interests, late fees, costs and attorney fees which are due and which may accrue or come due after the recording of the Claim of Lien and before the entry of a final judgment of foreclosure. Upon full payment, the person making payment is entitled to a satisfaction of the lien.

2.5 Foreclosure of Lien. The Association may bring an action in its name to foreclose its lien for unpaid assessments or charges by the procedures and in the same manner as is provided in Section 720.3085 of the Florida Statutes, as amended from time to time, for the foreclosure of a lien upon a condominium Lot for unpaid assessments. All unpaid assessments and charges also constitute a personal obligation of the owners and the Association may, in addition to any other remedy herein provided, bring an action at law against any owner liable for unpaid charges or assessments. If final judgment is obtained, such judgment shall include interest on the assessments as above provided and reasonable attorney fees to be fixed by the Court, together with the costs of the action, and the Association shall be entitled to recover reasonable attorney fees in connection with any appeal of such action.

2.6 Priority of Liens. The Association's lien for unpaid charges, assessments and all other amounts shall be subordinate and inferior to any recorded institutional first mortgage, except as provided by Section 720.3085, Florida Statutes, unless the Association's Claim of Lien was recorded before the mortgage, but shall relate back to the date the original Declaration was recorded in the Public Record and be superior to, and take priority over, any other mortgage, lien or interest recorded after that date. Any lease of a Lot shall be subordinate and inferior to the lien of the Association, regardless of when the lease was executed.

2.7 Application of Payments; Failure to Pay; Interest. Assessments, charges and installments thereon paid on or before fifteen (15) days after the date due shall not bear interest, but all sums not so paid shall bear interest at the highest rate allowed by law, calculated from the date due until paid. In addition to interest the Association may also charge an administrative late payment fee in an amount not to exceed the maximum amount allowed by law. Assessments, charges and installments thereon shall become due, and the Lot owner shall become liable for said assessments or installments, on the date established in the Bylaws or otherwise set by the Board of Directors for payment. Any restrictive endorsement on or accompanying a payment notwithstanding, all payments made to the Association by or on behalf of a Lot owner shall be applied first to interest, then, to late fees, then to costs, then to attorney fees, then to fines, then to other charges, and then to the oldest outstanding unpaid regular, special or individual assessments. No payment by check is deemed received until the check has cleared. The Association shall also have the right to require any tenant occupying the Lot during any period in which

assessments for the Lot are due but have not been paid to the Association to pay the rent to the Association as provided in Section 10.10 below

2.8 Certificate as to Assessment, Mortgagee Questionnaires. Within fifteen (15) days after request by a Lot owner or mortgagee, the Association shall provide a certificate (sometimes referred to as an "estoppel letter" stating whether all assessments and other monies owed to the Association by the Lot owner with respect to the Lot have been paid. Any person other than the Lot owner who relies upon such certificate shall be protected thereby. The Association may charge up to $150.00 to issue an estoppel certificate. The Association may but is not obligated to respond to mortgagee questionnaires. If the Association chooses to respond to a mortgagee questionnaire the Association may charge up to $150.00 (in addition to any charge for an estoppel letter) plus attorney's fees for doing so.

2.9 Mortgage Foreclosure. Unless otherwise provided by law, if the mortgagee of a first mortgage or an institutional mortgage of record acquires title to a Lot as a result of foreclosure of the mortgage, or as the result of a deed given in lieu of foreclosure, such acquirer or title shall be liable for the share of common expenses or assessments attributable to the Lot, or to the former owner of the Lot, which came due prior to the mortgagee's acquisition of title as required by Section 720.3085, Florida Statutes. Any unpaid share of common expenses for which such acquirer is exempt from liability becomes a common expense collectible from all owners, including such acquirer and his successors and assigns. All other persons or entities acquiring title to a Lot as the result of a foreclosure or other Court ordered sale shall be obligated to pay all past due assessments due and owing at the time of sale regardless of whether or not the Association has file a lien. No owner or acquirer of title to a Lot 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 his ownership.

3. SET-BACK REQUIREMENTS. Homes shall be set-back twelve (12) feet from the front Lot lines and a minimum of five (5) feet from the side lines. The set-back on the side street of corner tracts shall be a minimum of twelve (12) feet. The twelve (12) foot set-back requirement from the front of each Lot line is mandatory and no owner may deviate by setting back farther than twelve (12) feet except by written approval of the Board of Directors, as successors to the Grantor.

4. EASEMENTS.

4.1 Utility Easements. The Board of Directors, as successors to the Grantor, reserves utility easements of five (5) feet on each side, ten (10) feet on the rear and front of all Lot lines, a ten (10) foot sewer utility easement of the side Lot lines of Lots 52 and 53, transversing the corner of Lots 43 and 44, a ten (10) foot drainage and planter easement of the North, South, and East property line, a thirty-two point five foot (32.5) drainage easement of the West property line

together with all streets and gutters within the subdivision.

4.2 No structure of any nature shall be placed on any of the above easements. The Board of Directors, as successors to the Grantor, will not be responsible for any damage to fences, plants, grass or trees within these easements.

5. ARCHITECTURAL CONTROL TO PRESERVE THE BEAUTY, QUALITY AND VALUE OF THE COMMUNITY.

5.1. Within sixty (60) days after installation and placement of each home, the owner agrees to provide the following:

(A) A concrete driveway or concrete ribbons, no less than twelve (12) feet wide and thirty-five (35) feet long. The length shall be measured from the edge of the road curb and be of a type approved by the Board of Directors, as successors to the Grantor, in writing.

(B) Decorative under-skirting, for mobile homes, completely around the mobile home in a manner approved by the Board of Directors in writing.

(C) Sodded front lawn consisting on one-half of the Lot and a sodded or completely seeded rear lawn. The said entire Lot must be maintained as a lawn or small garden area.

(D) Yard light of a uniform and approved design to be placed in a specified location. Said lights shall be maintained by property owners and shall operate as a street lighting system.

(1) Enforcement: To impose a fine of $50.00 against Lot owners whose pole lights are not kept on as a street lighting system, and to place into attorney collection any unpaid fine, plus legal fees to collect said fine and/or obtain legal injunction against the Lot owners.

5.2 <u>Improvements Requiring Approval</u>. No building, structure, enclosure or other improvement shall be erected or altered, nor shall any grading, excavation, landscaping, change of exterior color, or other work which in any way alters the exterior appearance of any structure or Lot shall occur unless and until the plans, specifications, and location of same shall have been submitted to, and approved in writing by, the Board of Directors. All plans and specifications shall be evaluated as to harmony of external design and location in relation to surrounding structures and topography. The Board of Directors shall have thirty (30) days after delivery of all required information, plans and materials to approve or deny any such plan, and if not denied within such period, said plans shall be deemed approved. All approved modifications or improvements shall be completed within one hundred eighty (180) days from the date of

approval. All changes, alterations or modifications to an approved plan must also be approved pursuant according to theses same requirements.

5.3 Driveways. All dwellings shall have a paved driveway of stable and permanent construction. The driveway shall be at least ten (10') feet in width. All driveways shall be made of concrete or asphalt unless otherwise approved by the Board of Directors in advance and in writing.

5.4 Vehicle Parking, Storage, and Maintenance. Passenger vehicles and half-ton pick-up trucks may be parked on the premises, except that larger vehicles, boats, trailers, travel trailers, campers, commercial vehicles, and all other vehicles, excepting only standard passenger cars, may be stored within a garage with a closed door or otherwise screened from view. No vehicles may be parked on the grass or other unpaved area and the Board of Directors may set reasonable rules and regulations for on-street parking. No non-licensed or non-operating vehicle is permitted in the subdivision, except bicycles and tricycles.

5.5. General Restrictions on Use.

(A). Home**.** Each home shall be used as a single-family residence and for no other purpose. No tents, shacks or other out-buildings may be used as a temporary residence.

(B) Pets**.** Pets of a normal domesticated household type (such as cats or dogs) are permitted in reasonable numbers. Pets must be carried under the owner's arm or leashed at all times when outside the owner's property. The ability to keep pets is a privilege, not a right, and the Board of Directors is empowered to fine an Owner and/or order and enforce the removal of any pet that becomes a source of unreasonable annoyance or a danger to the health, safety and welfare to other residents. No reptiles, monkeys, rodents, amphibians, poultry, swine, rabbits, ferrets or livestock may be kept on the properties. All animals kept in the home must be for personal family enjoyment as pets, no commercial breeding or boarding of animals of any type is allowed.

(C) All exterior appliances, containers and/or equipment used in the supply of fuel, gas, water softener and the like, or in the disposing of refuse shall be concealed by means of a decorative enclosure, planting or underground enclosures.

(D) It is the responsibility of all Lot owners to keep their property in a neat and clean condition, that is the grass cut, trees and shrubbery trimmed, and mobile home and all other structures in good repair. During long periods of absence, the owner shall be obligated to make arrangements to have the above done, or the Board of Directors, as successors to the Grantor, is authorized to do so at owner's expense, and if necessary, to file a lien to enforce due collection thereof.

(E) No towels, garments, rugs, etc., may be hung from windows or other parts of the homes. No clotheslines or drying yards shall be allowed.

(F) 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. Vacant Lots shall be cleaned, seeded and then maintained in a well kept condition at all times. All owners of riverfront Lots shall keep all brush and other natural growth adjacent to the river trimmed to at or below the level of the riverbank and all trees trimmed so that they do not unreasonably interfere or block the view of the river from adjacent Lots.

(G) No obnoxious or offensive activity shall be carried on within Coastal Estates or upon any part, portion or tract thereof, nor shall anything be done which may be or become a source of unreasonable nuisance or annoyance to the Community or its residents.

(H) Trash, garbage and other waste shall be kept only in sanitary containers which shall be kept in a clean and sanitary condition and screened from view from neighboring homes and the interior roadways except when out for pick-up. Recycle bins and trash shall not be put on the curb, for pick-up, prior to 6:00 p.m., the night before the scheduled pick-up and shall be removed from the curb no later than 6:00 p.m., the day of pick-up. All trash, garbage and other waste containers kept outside shall be equipped with a latch or other device to prevent animals from entering the container and owners shall regularly use and employ the device.

(I) No antenna of any kind shall be placed or erected upon any Lot or affixed in any manner to the exterior of any building other than a satellite antenna less than one meter in diameter, an aerial designed to receive over-the-air television broadcast, or an antenna designed to receive multichannel, multi point distribution service which may be installed only at a location on a Lot approved by the Board of Directors. In approving the installation and location of any antenna the ARC shall comply with all applicable laws, whether state or Federal.

(J) No fences or walls shall be permitted on any portion of a Lot except for the fence maintained by the Association in the No Access Fence Easement Area. A lattice type structure designed to enclose and screen garbage cans is allowed with prior approval of the Board of Directors.

(K) All recreational facilities or improvements constructed or placed on a Lot, including without limitation by specification, any play or recreation structures, such as swing sets,

play houses, plastic play sets or any other kind of structures of a similar kind or nature (collectively referred to herein as "Recreation Facilities") must first be approved by the Board, which said approval shall be conditioned upon the Recreational Facility being adequately landscaped so it is not visible from the street or the adjoining neighbor's yard. Swing sets will be no higher than 8 feet, no longer than 13 feet and no wider than 9 feet. All swing sets shall be made out of preserved wood or metal. The owner is responsible to keep all Recreation Facilities maintained in a good manner. If upon inspection, the owner has not maintained the Recreational Facilities the Board may order them removed. If renters wish to erect a swing set or other Recreational Facility they must have written permission signed by the actual owner (not owner's agent) of the house. The written permission slip must be given to the Board prior to installation and must indicate who is going to pay for the landscaping required to shield the Recreational Facility from view. The Board shall place the permission slip in the files of the Association. No basketball backboards shall be attached to a dwelling or any structure connected to the dwelling. Portable basketball backboards are allowed. If you desire to erect a tent, children's bubble house, stage or other type of rented structure or have a live animal for any purpose such as a wedding, birthday or graduation party you must first obtain permission from the Board. Permission should be sought at least two weeks prior to the event.

6. COLLATERAL ASSIGNMENT OF RENTS. In the event an Owner is in default in payment of assessments for common expenses, the Association shall have the authority to collect rents directly from the Owner's tenant. Such rental payments shall be collected in accordance with the procedures established by the Board of Directors and applied in accordance with Section 3.7 of this Deed of Restrictions until all past due amounts are paid in full. In the event such tenant fails to remit said rents directly to the Association within seven (7) days (but no later than the day the next rental payment is due) from the day the Association notified such tenant in writing that the rents must be remitted directly to the Association, the Association shall have the right to terminate the lease and evict the tenant. For the purpose of such eviction, the Association shall be deemed to be an agent of the landlord.

7. FEES AND DEPOSITS RELATED TO THE SALE OF LOTS. Whenever herein the Board's approval is required to allow the sale or other transfer of an interest in a Lot, the Association may charge the owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law. A separate fee may be charged for each person who is obtaining an interest in the Lot except if such persons are husband and wife.

8. **AMENDMENTS; TERMINATION.**

8.1 <u>Duration</u>. The conditions of this Deed of Restrictions shall run with the land and shall inure to the benefit of and be enforceable by the Association or the owner of any real property subject to this Deed of Restrictions, their respective legal representatives, heirs, successors and

assigns until 2030. On January 1, 2030, this Deed of Restrictions 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 Deed of Restrictions 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 Deed of Restrictions if prior to one (1) year in advance of an effective date of a proposed termination, at least two-thirds (2/3) of all owners of Lots and two-thirds (2/3) of all Institutional Mortgagees on Lots affirmatively vote, in person or by proxy, at a duly held meeting of members of the Association in favor of terminating this Deed of Restrictions. It shall be required that written notice of any meeting at which such proposal to terminate this Deed of Restrictions is to be considered, setting forth the fact that such a proposal will be considered, to be given at least ninety (90) days in advance of said meeting. If the Association votes to terminate this Deed of Restrictions, the President and Secretary 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 Deed of Restrictions, and the total number of votes cast against such resolution. Said certificate shall be recorded in the Public Records of Lee County, Florida at least one (1) year prior to the effective date of termination, and may be relied upon for the correctness of the facts contained therein as they relate to termination of this Deed of Restrictions.

8.2 **Termination/Amendments by Members**. These covenants and restrictions are to run with the land and shall be binding upon the parties hereto, their heirs, legal representatives or assigns, and all parties claiming by, through or under until June 1, 2039, after which said covenants shall be automatically extended for successive periods of ten years, unless by vote of a majority of the then owners of the Lots in the subdivision it is agreed to change them in whole or in part. Notwithstanding the forgoing, these covenants and restrictions may be amended at any time by the owners by a vote of a majority of the entire voting interests (one voting interest per Lot) at a duly noticed meeting of the members of Coastal Estates or by the written agreement of a majority of the entire voting interests. The amendment shall be effective upon the recordation in the Public Records of Lee County, Florida, of a Certificate of Amendment signed by the President or Vice-President of Coastal Estates, Inc., with the formalities of a deed certifying that the requisite vote of the owners was obtained at a meeting or by written agreement.

9. ENFORCEMENT; GENERAL PROVISIONS.

9.1 **Enforcement in General**. Enforcement of these covenant, conditions and restrictions may be by a proceeding at law or in equity and may be instituted by the Association, its successors or assigns, or by 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 any Lot to enforce any lien created by these covenants. Failure of the Association or any owner to enforce any covenants, condition or restriction herein contained for any period of time shall not be deemed a waiver or estoppel of the right to enforce same thereafter.

9.2 Enforcement of Maintenance Obligations. In the event that the Lot owner fails to comply with any provisions of this Deed of Restrictions relating to the maintenance, repair, alteration, addition, or general appearance of the property, the Association may, but is not obligated to, enter the property to correct the condition and then lien the Lot owner for the cost, so long as the owner has not complied with the Association's demand to correct the condition with thirty (30) days after given written notice.

9.3 Owner and Member Compliance. The protective covenants, conditions, restrictions and other provisions of the governing documents and the rules promulgated by the Association shall apply to members and all persons to whom a member has delegated his right of use in and to the Common Areas, as well as to any other person occupying any home under lease from the owner or by permission or invitation of the owner or his tenants (express or implied), and their licensees, invitees or guests. Failure of any owner to notify any person of the existence of the rules, or the covenants, conditions, restrictions, and other provisions of the governing documents shall not in any way act to limit or divest the Association of the power to enforce these provisions. Each Lot owner shall be responsible for any and all violations by his tenants, licensees, invitees or guests and by the guests, licensees and invitees of his tenants, at any time.

9.4 Litigation. Enforcement actions for damages, or for injunctive relief, or both, on account of any alleged violation of law, or of the governing documents or Association rules, may be brought by any owner, or the Association against:

(A) the Association;

(B) the Lot owner;

(C) anyone who occupies or is a tenant or guest of a Lot; or

(D) any officer or Director of the Association who willfully and knowingly fails to comply with these provisions.

9.5 Attorney Fees. In any legal proceeding arising out of an alleged failure of a guest, tenant, residential Lot owner, officer, Director or the Association to comply with the requirements of the law, or the governing documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such attorney fees as may be awarded by the court.

9.6 **No Election of Remedies**. All rights, remedies and privileges granted to the Association or owners under the law and the governing documents shall be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising any other rights, remedies, or privileges that may be available.

9.7 **Notices**. Any notice required to be sent to any member or owner under the provisions of this Deed of Restrictions 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 owner appearing in the records of the Association, or to the address of the member's home. Notice to one of two or more co-owners of a Lot 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.

9.8 **Severability**. Should any covenant, condition or restriction herein contained, or any section, subsection, sentence, clause, phrase or term of this Deed of Restrictions or its recorded exhibits be declared to be void, invalid, illegal, or unenforceable, for any reason, by any court 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. Nothing contained in this Amended and Restated Deed of Restrictions of Restrictions is intended to affect vested rights. If any provision contained herein is deemed by a competent court of law to have such affect, then such provision will be deemed null and void but have no affect on the remaining provisions herein.

9.9 **Interpretation; Disputes**. The Board of Directors is responsible for interpreting the provisions of this Deed of Restrictions, its exhibits and rules promulgated by the Board. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel retained by the Board that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation. In the event there is any dispute as to whether the use of the Property complies with the covenants and restrictions contained in this Deed of Restrictions, its exhibits or the rules promulgated by the Board the matter shall be referred to the Board and the determination of the Board with respect to such dispute shall be dispositive on the issue and binding on all parties.

9.10 **Non-Profit Status**. Notwithstanding anything contained herein to the contrary, the Association will perform no act nor undertake any activity inconsistent with its non-profit status under applicable state or federal law.

9.11 **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.

9.12 **Headings**. The headings used in the governing documents are for reference purposes only, and do not constitute substantive matter to be considered in construing the terms and provisions of these documents.

10. DISCLAIMER OF LIABILITY OF ASSOCIATION.

10.1 NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BYLAWS, OR ANY RULES AND REGULATIONS OF THE ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING, BINDING ON OR ADMINISTERED BY THE ASSOCIATION (COLLECTIVELY, THE "ASSOCIATION DOCUMENTS"), THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTIES INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OR ANY SUCH PERSONS, WITHOUT LIMITING THE FOREGOING:

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

10.3 THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, LEE COUNTY AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTUOUS ACTIVITIES.

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

10.5 EACH OWNER AND EACH OTHER PERSON HAVING AN INTEREST IN OR

LIEN UPON ANY PORTION OF THE PROPERTIES SHALL BE BOUND BY THESE DISCLAIMERS AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECT WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED HEREIN.

10.6 AS USED HEREIN "ASSOCIATION" SHALL INCLUDE WITH ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS.