

This instrument prepared by and return to:  
Brandon R. Burg, Esquire  
Burg Law Firm, P.A.  
22623 Panama City Beach Pkwy Ste 5  
Panama City Beach, FL 32413

**CERTIFICATE OF AMENDMENT**  
**TO THE**  
**MASTER DECLARATION OF RESTRICTIVE COVENANTS AND EASEMENTS**  
**FOR BLUE MOUNTAIN BEACH DEVELOPMENT**

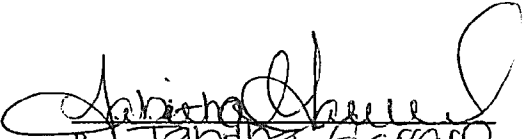
NOTICE IS HEREBY GIVEN that at a duly called and noticed meeting of the Blue Mountain Beach Master Owners Association, Inc., a Florida corporation not-for-profit, (the "Association") on November 7, 2017 and pursuant to Fla. Stat. § 720.309 and Section 13.5, of the Master Declaration of Restrictive Covenants and Easements for Blue Mountain Beach Development (the "Declaration"), the Declaration, as originally recorded in OR Book 2095 at Page 311, et. seq., of the Official Records of Walton County, Florida, be and the same is hereby amended as follows:

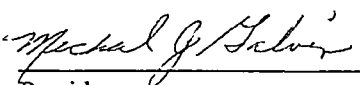
- 1. See Exhibit "A" attached hereto and entitled "Amended and Restated Master Declaration of Restrictive Covenants and Easements for Blue Mountain Beach Development."
- 2. See Exhibit "B" attached hereto and entitled "Amended and Restated Bylaws of Blue Mountain Beach Master Owners Association, Inc."

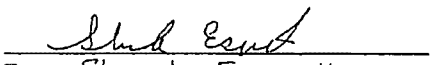
IN WITNESS WHEREOF, Blue Mountain Beach Master Owners Association, Inc., has caused this Certificate of Amendment to be executed in accordance with the authority hereinabove expressed this 20th day of November, 2017.

ATTEST:

BLUE MOUNTAIN BEACH MASTER OWNERS ASSOCIATION, INC.

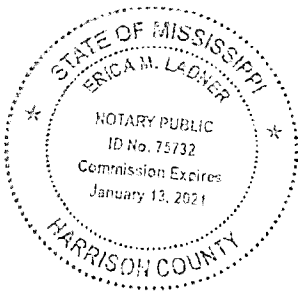
  
By: Tabitha Carraro


  
\_\_\_\_\_  
President

  
By: Shanda Esposito  
STATE OF MISSISSIPPI  
COUNTY OF HARRISON

**THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME** on this 20 day of November 2017, by Michael J. Galvin, President of Blue Mountain Beach Master Owners Association, Inc., who is personally known to me or who has produced a valid driver's license as identification, and that (s)he executed this instrument for the purposes herein expressed.

(seal)



  
\_\_\_\_\_  
NOTARY PUBLIC  
Erica M Ladner  
Notary Print Name  
My Commission Expires: \_\_\_\_\_

ATTEST:

BLUE MOUNTAIN BEACH MASTER OWNERS ASSOCIATION, INC.

Kendal Hin  
By: Kendal Hinson

By: [Signature]  
Brett, Flynn, Vice President

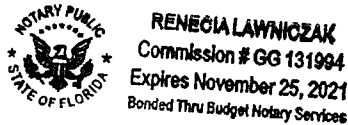
Melissa Morris  
By: Melissa Morris

STATE OF FLORIDA

COUNTY OF WALTON

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME on this 10<sup>th</sup> day of November 2017, by Brett Flynn, in his capacity as Vice President of Blue Mountain Beach Master Owners Association, Inc., who is personally known to me or who has produced a valid driver's license as identification, and that (s)he executed this instrument for the purposes herein expressed.

(seal)



[Signature]  
NOTARY PUBLIC

Renecia Lawniczak  
Notary Print Name  
My Commission Expires: 11 | 25 | 21

**Exhibit "A"**

**AMENDED AND RESTATED MASTER DECLARATION  
OF RESTRICTIVE COVENANTS AND EASEMENTS  
FOR BLUE MOUNTAIN BEACH DEVELOPMENT**

**SUBSTANTIAL REWORDING OF DECLARATION  
SEE ORIGINAL DECLARATION AS AMENDED FOR PRESENT TEXT**

For the purpose of enhancing and protecting the value, attractiveness and desirability of the Parcels, this Community (as defined below) was created by a Master Declaration of Restrictive Covenants and Easements for Blue Mountain Beach Development recorded in Official Records Book 2095, Pages 311, *et seq.*, Walton County, Florida Public Records, as amended from time to time.

All real property in the Community shall be held, owned, sold, transferred, conveyed and occupied subject to the covenants, conditions and restrictions hereinafter set forth, which shall be binding upon persons having any right, title or interest in or to the subject real property, and their heirs, successors and assigns and shall constitute covenants running with the land.

**ARTICLE 1  
DEFINITIONS**

The following terms when used in this Declaration shall have the following meanings:

1.1 **“Act,”** or **“Homeowners’ Association Act,”** or **“HOA Act”** means Chapter 720 Florida Statutes, as it now exists or as it may be amended from time to time including the definitions therein contained. However, except when specific incorporation of the Act or its procedures are set forth in the Governing Documents, it is the intention of this Declaration that the Property and Association be operated in conformance with the law as existed when this Amended and Restated Declaration was recorded, so as to avoid impairment of contract rights or vested rights.

1.2 **“Articles”** means the Articles of Incorporation of the Master Association.

1.3 **“Blue Mountain Beach Development”** means and refers to the entire community developed upon the Property, including all improvements and amenities, the Constituent Associations, and other components thereof, unless the context otherwise requires.

1.4 **“Board”** means the Board of Directors of the Master Association.

1.5 **“By-Laws”** means the By-Laws of the Master Association.

1.6 **“Charge”** means any legal or equitable indebtedness of an Owner to the Association, or other sums owed to or due to the Association from an Owner, or any cost or expense incurred by the Association on behalf of or because of an Owner, other than Assessments for Common Expenses, which the Owner is obligated to pay to the Association. Said obligations may arise by oral or written contract, by law or in equity, or may be created by these Governing Documents.

1.7 **“Common Assessment”** shall mean the annual Charge against each Owner and his or her Unit, representing a portion of the total costs to the Master Association of maintaining, improving, repairing, replacing, managing and operating the Common Property pursuant to this Declaration.

1.8 **“Common Expenses”** means the actual and estimated costs of maintenance, management, operation, repair and replacement of the Common Property, (including unpaid Special Assessments), and the various amenities and facilities thereon including but not limited to, those costs not paid by the Owners responsible for payment; the costs of any and all commonly metered utilities, cable or master television charges, and other commonly metered charges for the Common Property; the Water Management System; costs of management and administration of the Master Association, including, but not limited to, legal and accounting and similar services, compensation paid by the Master Association to managers, contractors, utilities, landscaping and other services benefiting the Common Property, and all facilities thereon; the cost of equipment, materials, labor, services, and management and supervision thereof; the costs of fire, casualty and liability insurance, workmen's compensation insurance, and other insurance covering the Common Property; the costs of bonding of the members of the management body; taxes paid by the Master Association, including any real property taxes for the Common Property; amounts paid by the Master Association to discharge any lien or encumbrance levied against the Common Property, or portions thereof; and the costs of any other expenses incurred by the Master Association for any reason whatsoever in connection with the Common Property for the benefit of Owners.

1.9 **“Common Property”** means all real property submitted to this Declaration that is intended to be devoted to the common use and enjoyment of the Owners of Units within the Property. Common Property includes lands, roads, systems, facilities, rights and easements which may be deeded, leased, conveyed, granted, reserved or assigned to the Master Association and/or designated by Declarant as Common Property, together with all improvements thereon and equipment, facilities and rights associated therewith. Common Property includes personal property acquired by the Master Association, and property which the Master Association owns and for which it has maintenance responsibilities, such as Roads, roadways, driveways, sidewalks, boardwalks, pedestrian walkways, signage, lawns, landscaping, environmental areas and utility lines and easements and such other facilities within the Property that are designated as the responsibility of the Master Association to maintain. Common Property may also include property not located within the Property but made subject to this Declaration, such as easements, leases or other rights in other property.

1.10 **“Constituent Association”** means Village Place Condominium Association, Inc. (a/k/a The Condominiums), Village Cottage Owners Association, Inc. (a/k/a Northside), The Cottages at Blue Mountain Beach Owners Association, Inc. (a/k/a Southside), and such other associations that may be submitted to and accepted by the Association.

1.11 **“Developer” or “Declarant”** means BLUE MOUNTAIN BEACH ASSOCIATES, L.C., a Florida Limited Liability Company, and RESORT MANAGEMENT SERVICES -- EMERALD COAST, INC., a Florida Corporation, and their respective successors and assigns, who acquire any portion of Blue Mountain Beach Development for the purpose of development or sales and leasing activities, provided such respective entity comprising Declarant assigns its rights hereunder to such persons by express assignment or by operation of law.

1.12 **“First Mortgagee”** means an Institutional Lender, as hereafter defined, which holds a first mortgage encumbering a Unit, as hereafter defined.

1.13 **“Institutional Lender”** means a governmental agency, commercial or savings bank, savings and loan association, mortgage company, life insurance company, licensed mortgage company, pension fund, or business trust including, but not limited to, a real estate investment trust, or any assignee of a loan made by any such lender including, but not limited to GNMA, FNMA, VA, FHA or FHLMC, or any private or governmental institution which has insured the loan of a lender or any combination of the foregoing entities.

1.14 **“Irrigation System”** shall mean and refer to any constructed surface and/or underground lines, systems, facilities, lift stations, or related improvements, equipment or structures for the provision of water for purposes of irrigation to all or any portion of the Property. Said Irrigation System may be entirely located upon the Property, but may also be located within exclusive or non-exclusive public or private easements outside the Property, if such easements are used to service all or any portion of the Property with water for irrigation purposes.

1.15 **“Master Association” or “Association”** means Blue Mountain Beach Master Owners Association, Inc., a not-for-profit Florida corporation, whose purpose is to administer the Common Property, as hereinafter defined, in accordance with the provisions of this Declaration and otherwise conduct business as provided in the governing documents of the Master Association.

1.16 **“Occupant”** means the occupant of any Unit on the Property other than the Owner or the immediate family (children) of the Owner; Occupants shall include guests, tenants, renters, invitees, lessees, and any other person occupying a Unit for any length of time.

1.17 **“Owner” or “Member”** means the record owner, whether one or more persons or entities, of the fee simple title to any Unit upon any portion of the Property subject hereto, but shall not mean any holder of a mortgage encumbering a Unit unless and until such holder has acquired title thereto pursuant to foreclosure or any proceeding or conveyance in lieu of foreclosure. Class “C” Members are not included in this definition.

1.18 **“Property” or “Community”** means all real property which is made subject to this Declaration, as amended from time to time, together with such other real property as may from time to time be annexed thereto. Such real property initially included the real property submitted to condominium form of ownership as Blue Mountain Beach Condominium pursuant to that certain Declaration of the Condominium recorded in Official Records book 2096, page 1, as amended and restated by the certain Declaration of Condominium for Blue Mountain Beach Condominium Amended and Restated recorded in Official Records Book 2134, Page 1, both in the public records of Walton County, Florida (“BMB Condominium” n/k/a Blue Lupine). Pursuant to Section 2 of the Common Interest Agreement, BMB Condominium is no longer and shall not hereinafter be considered to be a part of the Association or Property subject to this Declaration. Notwithstanding any provision in this Declaration to the contrary; provided, however, owners of units in BMB Condominium as to retain, and in fact shall retain, the rights and easements described in Section 2.1 through 2.5 and Article 12 of this Declaration. This Amended and Restated Declaration is not intended to alter what real property has been added or removed from the Association via any prior amendments to the Declaration.

1.19 **“Roads”** means those private streets, roads, terraces, drives, cul-de-sacs, courts and avenues, including contiguous parking areas, as from time to time are improved and exist within the Common Property.

1.20 **“Rules and Regulations”** means those rules and regulations governing the use of Units and the Common Property and Restricted Common Property of the Master Association, and the conduct of Owners, Occupants and guests within Blue Mountain Beach Development, which may be adopted from time to time by the Master Association pursuant to provisions of the By-Laws.

1.21 **“Special Assessments”** means a Charge or Assessment in addition to Common Assessments as described in Section 5.4 herein, including an assessment against only a particular Owner or Owners, pursuant to this Declaration.

1.22 **“Storage Unit”** means a Unit within the Property (if constructed) which is designated for storage space usage and is not intended for separate residential use, but is intended for use as supplemental and incidental to the use and enjoyment of a Residential Unit, lot or parcel within Blue Mountain Beach Development.

1.23 **“Unit” or “Lot”** means any plot of land or condominium Unit located within the Property designed and intended for separate ownership, use and occupancy for residential purposes but shall not include Common Area within the Property. For purposes of this Declaration, unless otherwise provided, "Unit" includes Residential Units.

1.24 **“Water Management System”** shall mean and refer to lakes, ditches, culverts, lines, and constructed surface and/or underground systems and facilities for the drainage and/or storage of surface water. Said Water Management System may be entirely located upon the Property, but may also be comprised of public and private easements located outside of the Property, if those facilities service all or some portion of the Property on an exclusive or non-exclusive basis. The Water Management System shall be for the use and benefit of all lands that are now or hereafter a part of the Property. The Water Management System may, service other lands that do not form a part of the Property; or, may need the service of other lands outside of the Property, for which the Master Association may pay a fee. Each Owner and the Association shall have a perpetual, non-exclusive easement, right, license and servitude to use the Water Management System or Association may reconfigure such parts of the Water Management System to provided same is then in accordance with sound engineering practices and governmental approvals. In such event, the perpetual non-exclusive drainage easement rights of the Association and all Owners shall, without necessity of additional written documentation, be transferred from the previously existing Water Management System to the revised system. The Association may dedicate to any applicable governmental agency or authority, all or any part of the drainage lines, structures and facilities which are part of the Water Management System. The Association may execute such instruments as may be necessary or desirable to affect such dedication without the joinder or consent of any Owner, or the holder of any mortgage or other lien on any Unit.

## **ARTICLE 2 OWNERS' PROPERTY RIGHTS**

2.1. **Owners' Easements of Enjoyment.** Every Owner shall have the right and an easement of ingress and egress and of use and enjoyment in, to and over the Common Property

which shall be appurtenant to and shall pass with title to every Unit, subject to the following provisions:

(a) The right of the Master Association to reasonably limit the number of guests of Owners or Occupants using the Common Property.

(b) The right of the Master Association to reasonably limit the number of guests of Owners or Occupants using a Unit.

(c) The right of the Master Association to establish uniform Rules and Regulations pertaining to the use of the Common Property, and to establish uniform fees for violation of Rules and Regulations, and fees for usage of portions or facilities of the Common Property by Owners and Occupants in situations and under circumstances where the Master Association deems such fees for usage to be appropriate.

(d) The right of the Master Association in accordance with its Articles of Incorporation and By-Laws and this Declaration, with the vote or written assent of at least eighty percent (80%) of the Membership vote entitled to be cast to borrow money for the purpose of improving the Common Property and, subject to the provisions of Article 5 of this Declaration, to mortgage, pledge, or hypothecate any or all of the real or personal property owned by the Master Association as security for money borrowed or debts incurred provided that the Developer consents to same so long as it remains a Member. Provided further that the rights of any such mortgagee shall be subordinated to the use and enjoyment rights of the Owners herein.

(d) The right of the Master Association to suspend the rights to use the Common Property (except to the extent needed as a means of ingress and egress) of an Owner for any period during which any assessment or dues against or due from his Unit to the Master Association remains unpaid and delinquent in an amount exceeding \$1,000.00; and for a period not to exceed ninety (90) days for any single infraction of the published Rules and Regulations of the Master Association; provided that any suspension of such rights to use the Common Property shall be made only by the Board of Directors of the Master Association, as provided in the By-Laws of the Master Association.

(e) Subject to the provisions of Article 5 of this Declaration, the right of the Master Association to dedicate, release, alienate or transfer all or any part of the Common Property including the Water Management System to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board. No such dedication, release, alienation or transfer shall be effective except with the consent thereto of the Developer so long as it remains a Member.

(f) The right of the Master Association to designate automobile parking spaces located on the Common Property as Restricted Common Property to be used exclusively by the Owner or Occupants of designated Units or other designated persons or uses.

(g) The restrictions, limitations and easements for drainage and other purposes reserved or granted in prior recorded covenants and instruments which encumber the Common Property.



2.2 **Delegation of Use.** Any Owner may extend or delegate, as the case may be, in accordance with the By-Laws, his right of enjoyment to the Common Property and facilities to the members of his family, or to his Occupants, tenants, renters, guests, invitees and contract purchasers, who reside in or use his Unit, subject to reasonable regulation by the Board.

2.3 **Easements for Parking.** Temporary guest or recreational parking may be permitted within the Common Property, but only within spaces and areas clearly marked for such purposes. The Master Association, through its officers, committees and agents, is hereby empowered to establish parking regulations and to enforce such parking regulations by all means lawful for such enforcement on Roads, including the removal of any violating vehicle by those so empowered, recourse to civil authorities, and monetary fines per violation to be charged and assessed by the Master Association uniformly against Owners and Occupants who violate such Rules and Regulations. Such fines shall be charged and assessed against the Unit of a violating Owner or Occupant and may be enforced and collected as a Special Assessment, including the foreclosure of a lien therefor.

2.4 **Easement for Pedestrian and Vehicular Traffic.** In addition to the general easements for use of the Common Property reserved herein, the Declarant hereby reserves and covenants with respect to all portions of the Property, that each and every Owner, shall have a non-exclusive easement appurtenant to such property as each owns, for pedestrian and vehicular traffic over all Roads and pedestrian walkways within the Common Property, subject to the terms of this Declaration.

2.5 **Easements for Public Service Use and Use by the Master Association.** In addition to the foregoing easements over the Common Property, there shall be and Declarant hereby grants, reserves and covenants for itself and for all future Owners within Blue Mountain Beach Development, easements and the right to use and grant same for public services, including, but not limited to, the Water Management System, the Irrigation System, entertainment or communication cable systems, lines, ducts and wiring, all public utilities and the right of the police, fire/rescue, and emergency medical services, to enter upon any part of the Common Property for the purpose of enforcing the law or rendering assistance to persons thereon.

The Master Association reserves a 5-foot easement for ingress and egress in favor of all the owners along the rear and side boundaries of all lots or parcels of land within the property, and along the area shown as a 10-foot buffer, which is located on the northern and southern boundaries of the annexed property as shown on the "Plat". The Master Association further reserves a 10-foot easement along the front and rear boundaries of all lots or parcels of land within the property for purposes of maintaining or installing utilities within the development. The aforementioned easements are hereby designated as common properties.

2.6 **Waiver of Use.** No Owner may exempt himself from personal liability for assessments duly levied by the Master Association or obtain release of the Unit owned by him from the liens and charges thereof, by waiver of the use and enjoyment of the Common Property and the facilities thereon or by abandonment of his Unit.

2.7 **Title to the Common Property.** As required by law, the Developer has conveyed to the Master Association the fee simple title to the Common Property, and the Master Association has accepted such conveyance. The Master Association shall hold title to the Common Property for the

benefit of those persons entitled to use of the same under the provisions hereof.

### **ARTICLE 3 MEMBERSHIP AND VOTING RIGHTS**

3.1 **Membership.** Every Owner of a Unit in Blue Mountain Beach Development shall be a member of the Master Association. Membership shall be appurtenant to and may not be separated from ownership of a Unit which is subject to Common Assessment by the Master Association. Members' rights, powers, duties and privileges shall be as set forth in the Articles, By-Laws, this Declaration and any supplement thereto, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a Member.

3.2 **Voting.** Every Member shall be entitled to one (1) vote for each Unit that Member represents in the Master Association.

3.3 **Class "C" Membership.** The Association may, but is not required to, establish Class "C" membership in the community. Class "C" members may use the Association's amenities and generally have access to the Common Areas. The Association shall establish fees payable by Class "C" members for access and use of the Association's amenities. However, Class "C" members may not vote in the Association, participate in Association meetings, or request access to or inspection of Official Records of the Association. The Board may further define the rights, responsibilities, payment obligations, and enforcement mechanism for Class "C" membership via Rule as provided in Section 8.10.

### **ARTICLE 4 DUTIES AND POWERS OF ASSOCIATION**

The Master Association, acting through its Board of Directors, shall have such powers and duties with respect to the Common Property as are provided for herein and in the Articles and By-Laws and the "Act".

### **ARTICLE 5 ASSESSMENTS**

5.1 **Creation of the Lien and Personal Obligation of Assessments.** Owner of any Unit by acceptance of a deed thereto, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Master Association: (i) annual Common Assessments for Common Expenses; and (ii) Special Assessments, as provided in this Declaration; such assessments to be established and collected as hereinafter provided. Such assessments, together with interest, costs and reasonable attorneys' fees for the collection thereof, shall be a Charge and secured by a continuing lien upon the Unit with respect to which such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Unit at the time when the assessment became due. Subject to provisions of this Declaration protecting First Mortgagees, the personal obligation for delinquent assessments shall pass to and be assumed by the successors-in-title of such Owner.

5.2 **Date of Commencement of "Common Assessments; Due Dates; Assessment Period.** The Common Assessment shall on the first day of every "Assessment Period" as such term

is defined in the By-Laws of the Master Association.

5.3 **Basis for Common Assessments.** The Board, in accordance with the requirements for a change of Common Assessments, as provided in this Article 5 and the By-Laws, may change the budget and level of Common Assessments at any meeting of the Board. For each fiscal year (hereinafter called the "Assessment Year"), the Common Assessments may be adjusted by vote of the Board as set forth later herein.

5.4 **Special Assessments.** In addition to the Common Assessments authorized herein, the Board may levy in any Assessment Year one or more Special Assessments, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a capital improvement upon the Common Property, including the necessary fixtures and personal property related thereto, shortfalls in the annual budget projection, or for other purposes deemed appropriate by the Master Association. The due date of any Special Assessment under this Article shall be fixed in a resolution authorizing such Special Assessment.

5.5 **Damage to Common Property and Infractions by Owners.** Any maintenance, repairs or replacements necessary within the Common Property which arises out of or is caused by the willful or negligent act of an Owner, his family, guests, renters or invitees shall be done at said Owner's expense and a Special Assessment therefor may be made against his Unit. A Special Assessment may also be made against an Owner for violations of the Rules and Regulations of the Master Association as set forth herein, including in each case the foreclosure of a lien therefore.

5.6 **Rate of Assessment.** Common Assessments and Special Assessments provided for in this Declaration (other than Special Assessments directed against individual Owners for damage, violations, or similar purposes) shall be allocated and assessed equally against each Unit.

The Master Association also may levy Special Assessments against the individual Owners, or groups of Owners, who have caused the Master Association to incur special expenses due to willful or negligent acts of said Owner(s), their guests, tenants, lessees, invitees or agents, as well as uniform monetary fines for violation of this Declaration and the Rules and Regulations of the Master Association. Such Special Assessments shall be charged and assessed against the subject Unit(s), and may be enforced and collected as an assessment for Common Expenses, including the foreclosure of a lien therefor.

5.7 **Payment of Common Assessments; Due Date.** The Board of Directors shall fix the amount of the annual Common Assessment against each Unit in accordance with procedures for adopting a budget contained in the By-Laws. Written notice of any change in the amount of the annual Common Assessment shall be sent to every Member and Owner subject thereto, in accordance with the By-Laws. The due dates shall be established by the Board of Directors.

The Board of Directors shall cause to be prepared an annual balance sheet and operating statement reflecting income and expenditures of the Master Association for each fiscal year, and shall cause a copy of each such statement to be distributed to each Member, in the manner provided in the By-Laws.

At the end of any fiscal year of the Master Association, the Members may determine that all excess funds remaining in the Master Association's operating account may be returned to the

Members proportionately, or may be retained by the Master Association and used to reduce the following year's Common Assessments or added to the reserve funds of the Master Association. Upon the dissolution of the Master Association, any amount remaining in any reserve fund shall be distributed to or for the benefit of the Members in a proportion equal to their individual respective contributions.

## **ARTICLE 6 EFFECT OF NON-PAYMENT OF ASSESSMENTS**

6.1 **Effect of Non-Payment of Assessments.** Any installment of a Common Assessment, Special Assessment, or other Charge not paid within ten (10) days after the due date shall bear interest from the due date of such installment at the rate of eighteen (18%) percent per annum and subject to a late fee. The Master Association may bring an action at law against the Member or Owner personally obligated to pay the same, or foreclose the lien against the Unit. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Property or by abandonment of his or her Unit. If any installment of any Assessment is not paid within thirty (30) days after its due date, the Member may mail an acceleration notice to the Owner. The notice shall specify (i) the fact that the installment is delinquent, (ii) the action required to cure the default, (iii) a date, not less than forty five (45) days from the date the notice is mailed to the Owner, by which such default must be cured, and (iv) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the installments of the particular assessment for the then current fiscal year and notice of the Association's intention to record a lien on said Unit if amounts remain unpaid. If the delinquent installments of Common Assessments and any charges thereon are not paid in full on or before the date specified in the notice, the Member at its option may declare due all of the unpaid balance of the annual Common Assessment and all other assessments and charges thereon in any manner authorized by this Declaration.

6.2 **Claim of Lien.** Claim of Lien must recite a good and sufficient legal description of any such Unit, the record Owner or reputed Owner thereof, the amount claimed (including interest on the unpaid assessment at eighteen (18%) percent per annum, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the claimant. The lien shall continue until fully paid or otherwise satisfied, and shall secure all other Common Assessments, Special Assessments, and all other sums of any nature whatsoever which are due or thereafter accrue hereunder but remain unpaid by Owner. The Claim of Lien shall be recorded in the Official Records of Walton County, Florida.

No action shall be brought to enforce any assessment lien herein, unless at least forty-five (45) days has expired following the recording of a Claim of Lien and notice to the Member or Owner is either hand-delivered to the Owner, or is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Unit at their last known address and to the Unit if the Owners last known address is different from the Unit.

6.3 **Foreclosure Sale.** The assessment lien set forth herein may be foreclosed in the same manner as mortgages are foreclosed under Florida law. The Association, through duly authorized agents, shall have the power to bid on any Unit at a foreclosure sale, and to acquire and hold, lease, mortgage and convey the same.

6.4 **Curing of Default.** Upon the timely curing of any default for which a Claim of Lien was filed, an officer or authorized agent of the Association shall record an appropriate release of lien, upon payment by the defaulting Owner of a reasonable fee to cover the cost of preparing and recording such release.

6.5 **Cumulative Remedies.** The assessment liens and the right to foreclose and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Master Association may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

6.6 **Subordination of the Lien to Mortgages.** The lien securing the assessments provided for herein shall be subordinate as provided herein to the lien of any First Mortgage (meaning any recorded mortgage with first priority or seniority over all other mortgages) made in good faith and for value, and recorded prior to the date on which a Notice of Claim of Lien, pursuant to such lien, is recorded. The sale or transfer of any Unit shall not affect the assessment lien. However, upon the sale or transfer of any Unit pursuant to foreclosure or deed in lieu thereof of a First Mortgage, the liability of the First Mortgagee for the unpaid assessments represented by such lien shall be limited pursuant to terms of the Florida Homeowners Act, to the extent applicable, subject to the provisions of Section 11.2 herein. However, no sale or transfer shall relieve such Unit from liability for any installments of assessments thereafter becoming due or from the lien thereof.

## **ARTICLE 7 MAINTENANCE, REPAIR AND REPLACEMENT**

7.1 **Maintenance Obligations of Owners.** Subject to the duty of the Master Association to provide for maintenance as provided in this Article, it shall be the duty of the Owners of Units, with regard to the Units, and the Constituent Association(s) with regard to common areas or common elements within those associations (as applicable), to maintain, repair, replace and restore areas subject to their control, in a neat, orderly, sanitary and attractive condition. In the event that any such Owners or Constituent Associations shall permit any improvement, which it is their responsibility to maintain, to fall into disrepair or not to be so maintained so as to create a dangerous, unsafe, unsightly or unattractive condition, or to otherwise violate this Declaration, the Master Association shall have the right, but not the duty, upon fifteen (15) days prior written notice to the appropriate Owner or Constituent Association (except in cases of emergency, in which case no such notice be given), to correct such condition and to enter upon such property to make such repairs or to perform such maintenance, and the cost thereof shall be charged to the Owner or such Constituent Association. Said cost shall be a Special Assessment and shall create a lien upon all the Units in said condominium or association, or particular affected Units, enforceable in the same manner as other assessments as set forth in this Declaration. Such Constituent Association, or such Owners, shall pay promptly all amounts due for such work, and the costs and expenses of collection may be added, at the option of the Board of Directors, to the amounts payable by each Unit Owner in the affected Constituent Association or payable by the Unit Owner as Common Assessments. Each Owner is prohibited from improving, modifying or maintaining any Common Area or from performing any maintenance duties of the Association. Cutting down or planting any tree without the prior written consent of the Board is prohibited.

7.2 **Maintenance Obligations of Master Association.** Subject to the provisions of

Section 7.1, the Master Association shall maintain, or by contract provide for the maintenance of all of the Common Property and all improvements thereon, in good order and repair, including but not limited to the roads, roadways, pedestrian walkways, bicycle paths, boardwalks, signage, the Water Management System, the Irrigation System and any and all utility facilities, and other equipment, improvements, and buildings on or a part of the Common Property. In addition to improvement maintenance, the Master Association shall provide all necessary landscaping and gardening to properly maintain and periodically replace when necessary the trees, plants, grass and other vegetation which is on the Common Property. The Master Association shall further maintain, reconstruct, replace and refinish any Roads, roadways, pedestrian walkways, parking areas, and any paved surface in the Common Property. All of the foregoing obligations of the Master Association shall be discharged when and in such manner as the Board of Directors of the Master Association shall determine in their judgment to be appropriate.

7.3 **Exterior Appearance and Design.** The Owners of Units in any condominium building that has suffered damage to the building exterior, through the Member representing such Owners, shall apply for approval for reconstruction, rebuilding or repair of the improvements therein to the Board of the Master Association. Application for such approval shall be made in writing together with drawings, renderings and elevations showing the proposed reconstruction and the end result thereof. The Board shall grant such approval only if upon completion of the work the exterior appearance and design will be substantially the same as that which existed prior to the date of the casualty. Failure of the Board to act within thirty (30) days after receipt of such request in writing coupled with the drawings, renderings and plot plan showing the full and complete nature of the proposed change shall constitute approval thereof.

7.4 **Time Limitation.** The Owner or Owners of Units located in any damaged condominium building, and the affected Constituent Association, shall be obligated to proceed with all due diligence hereunder, and, assuming the availability of funds, the responsible party shall commence reconstruction within six (6) months after the damage occurs and diligently pursue completion of reconstruction of said building thereafter

7.5 **Management Company.** The Master Association shall have the right to retain a management company or companies or contractors to assist in the operation and maintenance of the Property. The costs for management fees shall be assessed as part of the Common Expenses.

7.6 **Irrigation.** Developer may, but shall not be obligated to, install an Irrigation System. If installed, the Master Association shall maintain the Irrigation System and provide irrigation services to all or certain portions of the Property served thereby at rates to be set by the Master Association. The Master Association reserves the right to determine whether, in the best interests of Blue Mountain Beach Development, the costs of providing and maintaining irrigation services shall be deemed a Common Expense (and billed as a Common Assessment) or a particular benefit (and billed as a Special Assessment to the owners of only such portions of the Property as receive said irrigation services). ANY WATER PROVIDED FOR IRRIGATION PURPOSES MAY BE UNTREATED WATER OR TREATED EFFLUENT. THE MASTER ASSOCIATION SHALL NOT BE RESPONSIBLE FOR THE QUALITY OF WATER PROVIDED FOR SUCH IRRIGATION PURPOSES. ANY USE OF SUCH WATER SHALL BE AT THE RISK OF THE USER.

## ARTICLE 8 USE RESTRICTIONS

All Property and improvements thereon comprising Blue Mountain Beach Development and additional lands which may become subject to this Declaration by Supplemental Declaration, shall be held, used and enjoyed subject to the following limitations and restrictions:

8.1 **Signs.** No sign, poster, display, billboard or other advertising device of any kind shall be displayed to the public view on any portion of the Property without the prior written consent of the Board, except signs, regardless of size, used by Declarant, its successors or assigns, for advertising the marketing, sale and/or rental of Units in Blue Mountain Beach Development.

(a) Prior to placing any signs offering property for sale, written notice shall be given to the Board, and said notice shall include contact information for an agent of owner, the price and terms of agency.

8.2 **Driveways.** All Roads, driveways, parking areas and pedestrian walkways shall be maintained in the style originally established by the Developer.

8.3 **Common Property and Restricted Common Property.** The Common Property and any Restricted Common Property and the improvements thereon and thereto, including the Water Management System, shall be used only for the purposes for which they are intended to be used in the furnishing of services and facilities for the enjoyment of the Unit Owners.

8.4 **Trash Containers.** All trash and trash containers and contents thereof shall be stored in a screened or protected area as approved by the Master Association.

(a) The Master Association shall establish standards for screened trash containers.

(b) Owners shall be required to place all trash in screened trash containers approved by the board; however, any property not located within 150 feet of an approved screen trash container shall have the right to place trash containers curbside on Walton County trash pickup days only. Any owners placing trash containers Curbside may not place trash containers curbside prior to 6:00 P.M. the night before the County trash pickup day, and the trash containers shall be removed by 6:00 P.M. the day of trash pickup.

8.5 **Exterior Improvements.** No improvements shall be permitted on the exterior of any Unit (including Storage Units) or condominium building without the prior written consent of the Master Association. This prohibition shall include, but is not limited to, applying, attaching, fastening, hanging, placing or otherwise displaying anything (including awnings, antennae, signs, screens or other fixtures or equipment) on the roof, exterior walls, balconies, doors or windows of any Unit (including Storage Units), common element or condominium building. The restrictions set forth in this Section 8.5 shall not apply to any antennae or related materials or equipment installed by the Association on the roof top of any Unit or condominium building.

8.6 **Parking.** Automobile parking spaces may be used only for parking automobiles that are in operating condition and for no other purposes. Trucks, commercial vehicles, campers, recreational vehicles, boats, trailers, or any vehicle not susceptible to registration by the State of

Florida as an "automobile" may not be parked in parking spaces and may not be kept on the Common Property, except in areas (if any) specifically designated for the same. Truck, as used herein, is defined as a commercial vehicle, and does not include small pickups, customized vans, minivans and other such vehicles customarily used for personal transportation and not business use. No vehicular or boat repair or maintenance shall be performed on the Property, except for emergency repairs sufficient to either start or tow a vehicle therefrom. Each Constituent Association shall be entitled to designate areas within the parking lots used exclusively by such Constituent Association for storage of bicycles.

8.7 **Additional Temporary or Permanent Structures.** No structure of a temporary or permanent character, including but not limited to, tents, sheds, garages, barns, or other out buildings shall be used or erected on any of the Common Property without the prior written approval of the Master Association as to its location, design, architecture and appearance.

(a) The Association reserves the right to pay for and construct Storage Units on Common Area. The location, size, and type of Storage Units will be determined at the discretion of the Board. Said Storage Units may then be sold, leased, or allocated to Owners at the discretion of the Board. Storage Units may not, however, be conveyed or made available to anybody who is not an Owner.

8.8 **Pets.** The following restrictions shall apply to any animal kept within the Property:

(a) No pets shall be raised for commercial purposes, and no more than three (3) dogs with a total weight not to exceed 50 pounds may be kept on the premises of a Unit. No cat or dog shall be permitted outside the Owner's Unit except when leashed and accompanied by the Owner. Each Owner shall be responsible for the actions of each pet and for cleaning up after it. In the event that any pet, including a dog, should constitute a nuisance in the opinion of a majority of the Board of Directors, then the Owner, when so notified in writing, shall be required to immediately remove said pet from the Property.

(b) Unit Owners shall be permitted to keep small pets, including birds, such as canaries or parakeets; fish, such as gold fish and tropical varieties; cats; and small dogs not exceeding fifteen (15) inches in height measured at the shoulder or thirty (30) pounds in weight at maturity.

(c) Owners may allow guests to bring a pet upon the property that the owner occupies at the time. This means an owner while they are living in their Unit may have guests who bring a pet. *This exception is not intended to provide owners the option of allowing short-term renters to have pets.*

i. **Short-Term Renters/Guests:** No guest, lessee, invitee, renter, or tenant shall bring any pet or animal whatsoever into a Unit that is rented for less than one month.

ii. **Long-Term Renters:** Renters with lease terms longer than one month ("Long-Term Renters") may have ONE small pet, including: birds, such as canaries or parakeets; fish, such as goldfish and tropical varieties; a cat; a small dog. No dog or any other pet shall exceed twenty-six inches (26") in height at the shoulder or thirty (30) pounds in weight at maturity. Dog breeds prohibited as "dangerous" by most



insurance policy many insurance companies, including Pitbulls, Rottweilers, Chow Chows, German Shepherds, Siberian Huskies, Alaskan Malamutes, Doberman Pinschers, Presa Canario Bulldogs, Great Danes, Akitas and Wolf Hybrids must apply for special permission to the Board of Directors before being brought onto the Property. A written application must be submitted to the Master Association to receive an exemption. This list may be updated by the Board as needed to reflect current insurance company evaluations.

(d) Owners and Long-Term Renters must comply with all rules and regulations established by the Board, including but not limited to the following:

- i. The pet owner is required to register the pet with the management office as proscribed by the Board within 30 days of bringing the animal onto the Property.
- ii. Pets MUST be on a leash at all times when outside the home/condominium, and owners must comply with all county regulations and policies.
- iii. The pet owner must pay a pet fee and post a security deposit as proscribed by the Board.
- iv. Owners of Breeds that are listed as dangerous by many insurance companies may be required to provide proof of additional insurance coverage, as determined by the Board.
- v. For long-term renters, the Unit owner shall be liable for any violations of the above policies by the renter.

8.9 **Alteration of Units.** The prior, express written consent of the Board of Directors of the Master Association is required prior to enclosing, painting or otherwise decorating or changing the appearance of any portions of the exterior of any of the buildings that may be constructed on the Property.

8.10 **Additional Rules and Regulations.** The Board of Directors of the Master Association, may establish such additional Rules and Regulations as may be deemed for the best interests of the Master Association and its Members for purposes of enforcing the provisions and purposes of this Declaration.

#### 8.11 **Exterior Improvements**

(a) **Landscaping.** All landscaping installation and maintenance on the Common Properties is the responsibility of the Master Association. Landscaping on individual lots is the responsibility of that particular lot owner. A landscaping plan shall be required with the submission of Architectural Review Documents for all new house plans and must be approved by the Master Association. Any new landscaping or change of more than 25% of existing landscaping on an individual lot will require the prior written approval of the Master Association.

(b) **Lighting.** Clear lighting (i.e. non-colored lighting) is encouraged on both the exterior and interior of Dwelling Units. Outdoor Christmas and holiday lighting is allowed only with approval of the Master Association and may be installed no earlier than 45 days prior to the holiday and must be removed within 7 days of after the holiday.

8.12 **Nuisances.** No nuisances shall be allowed upon the Property, nor any use or practice which is the source of unreasonable annoyance to Owners or Occupants or which interferes with the peaceful possession and proper use of the Common Property by Owners or Occupants. All parts of the Property shall be kept in clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate, nor shall any fire hazard be allowed to exist. No use shall be made of any Unit or of the Property which would increase the rate of insurance upon the Property.

8.13 **Lawful Use.** No immoral, improper, offensive or unlawful use shall be made of the Property or any part thereof; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies pertaining to maintenance, replacement, modification or repair of the Property shall be the same as is elsewhere herein specified with respect to other maintenance, repair and replacement.

8.14 **Mailboxes.** No mailboxes shall be located at any individual Units. Central mailbox locations shall be designated by the Board and central mailboxes shall be provided by the Master Association, which conform with the standards of the United States Postal Service.

## **ARTICLE 9 DAMAGE OR DESTRUCTION TO COMMON PROPERTY**

Damage or destruction of all or any portion of the Common Property shall be handled in the following manner, notwithstanding any provision in this Declaration to the contrary:

9.1 If, in the event of damage or destruction to the Common Property or any portion thereof, the insurance proceeds are sufficient to effect total restoration, then the Master Association shall cause such Common Property to be repaired and reconstructed substantially as it previously existed.

9.2 If the insurance proceeds are no less than 75% of the cost of repairs that would provide total restoration of the Common Property, then the Master Association shall cause the Common Property to be repaired and reconstructed, and the difference between the insurance proceeds and the actual cost shall be levied as a Special Assessment against the Members.

9.3 If the insurance proceeds are less than seventy-five percent (75%) of the cost of repairs needed to effect total restoration to the Common Property, then by written consent or vote of a majority of the votes entitled to be cast by Members, they shall determine whether: (i) to rebuild and restore the improvements substantially as they existed prior to damage and to raise the necessary funds over the insurance proceeds by levying Special Assessments; (ii) to rebuild and restore in a way which utilizes all available insurance proceeds and an additional amount not in excess of 25% of the cost of repairs, to be assessed as Special Assessments, replacing those improvements to the

extent possible substantially as they existed prior to being damaged; (iii) to not rebuild and to distribute the available insurance proceeds to the Members and the respective Owners and Mortgagees of the Units as their interests may appear; or (iv) to use the available insurance proceeds to remove the destroyed or damaged improvements, and to replace the same with other improvements.

9.4 Each Owner shall be liable to the Master Association for any damage to the Common Property not fully covered by insurance which may be sustained by reason of the negligence or willful misconduct of said Owner or of his family and guests, or Occupants of the Owner's Unit, both minor and adult. Notwithstanding the foregoing, the Master Association reserves the right to levy a Special Assessment against any such Owner, equal to the increase, if any, in the insurance premium directly attributable to the damage caused by such Owner. In the case of joint ownership of a Unit, the liability of such Owners shall be joint and several. The cost of correcting such damage shall be a Special Assessment against the Unit and may be collected as provided herein for the collection of Common Assessments, including the foreclosure of a lien therefor.

## **ARTICLE 10 INSURANCE**

10.1 **Common Property.** The Master Association shall keep all buildings, improvements, equipment and fixtures of the Common Property insured against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Master Association may deem desirable. The Master Association may also insure any other property whether real or personal owned by the Master Association against loss or damage by fire and such other hazards as the Master Association may deem desirable, with the Master Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the Common Property shall be written in the name of, and the proceeds thereof shall be payable to the Master Association. Insurance proceeds shall be used by the Master Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Master Association are Common Expenses included in the Common Assessments made by the Master Association.

10.2 **Waiver of Subrogation.** As to each policy of insurance maintained by the Master Association, which will not be voided or impaired thereby, the Master Association hereby waives and releases all claims against the Board, the Constituent Associations, the Owners, the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but only to the extent that insurance proceeds are received in compensation for such loss.

10.3 **Liability and Other Insurance.** The Master Association shall have the power to and may obtain comprehensive public liability insurance, including medical payments, liquor liability insurance and malicious mischief, in such limits as it shall deem desirable, insuring against liability for bodily injury, death and property damage arising from the activities of the Master Association or with respect to property under its jurisdiction, including, if obtainable, a cross liability endorsement insuring each Unit Owner, the Master Association and the Constituent Associations and their respective officers, directors, agents and employees from liability in connection with the Common

Property, the premiums for which are Common Expenses included in the Common Assessments made against the Unit owners. All insurance policies shall be reviewed at least annually by the Board of Directors and the limits increased in its discretion. The Board may also obtain such errors and omissions insurance, indemnity bonds, fidelity bonds and other insurance as it deems advisable, as to the Board, its members, and agents and employees of the Master Association.

10.4 **Waiver by Insurer.** Whenever obtainable, insurance policies maintained by the Master Association shall provide for the following: (a) that the policy may not be canceled or substantially modified without at least ten (10) days prior written notice to the Master Association and to each First Mortgagee as that term is herein defined; (b) waive the insurer's right of subrogation against the Master Association, the Constituent Associations and against Members and Owners individually and as a group; (c) the insurance is not prejudiced and the insurer may not avoid liability for a loss that is caused by an act of the Board of Directors of the Master Association or by a Member of the Board of Directors of a Constituent Association or by one or more Owners, or by any act or neglect of individual Members or Owners which is not in the control of such Members or Owners collectively; and (d) the policy is primary in the event that Members or Owners have other insurance covering the same loss.

## **ARTICLE 11 MORTGAGEE PROTECTION CLAUSE**

The following provisions are for the benefit of First Mortgagees and to the extent these provisions conflict with any other provisions of the Declaration, these provisions shall control:

11.1 Any holder of a mortgage encumbering any Unit which obtains title to such Unit pursuant to the remedies provided in such Mortgage (i.e. foreclosure) or by deed in lieu of foreclosure, shall take title to such Unit free and clear of any claims of unpaid assessments or charges due to the Master Association against such Unit to the extent provided in Chapter 720 of the Florida Statutes, as may be amended from time to time.

## **ARTICLE 12 ENCROACHMENTS AND EASEMENTS**

12.1 **Encroachments.** If (a) any portion of the Common Property or any of the Property subject to the jurisdiction of the Constituent Associations shall encroach upon each other, or (b) any encroachment shall hereafter occur as the result of: (i) construction of any building or other improvements; (ii) any alteration or repair to the Common Property or any other portion of Blue Mountain Beach Development; or (iii) any repair or restoration of any building or other improvements or any of the Common Property after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any building improvements or Common Property, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the structure causing said encroachment shall stand.

12.2 **Pipes, Wires, Ducts, Cables, Conduits, Public Utility Lines, etc.** All Property shall have and are hereby granted non-exclusive easements in common with all other such Property to have access to and use, maintain, alter, repair, and replace, all pipes, wires, ducts, vents, cables, conduits, public utility lines, and other similar or related facilities and equipment now or hereafter

located within and serving any such Property in Blue Mountain Beach Development, for purposes including but not limited to utility services, communications lines, cable, water, sewer, meter boxes, telephone, gas, electricity and the Irrigation and Water Management Systems. All of the Property shall be and are hereby made subject to mutual and common easements hereby granted in favor of all other such Property to install, have access to, use, maintain, repair, alter and replace, any pipes, wires, ducts, vents, cables, conduits, Water Management System, Irrigation System, public utility lines and other similar or related facilities and equipment now or to be located within any of such Property in Blue Mountain Beach Development for the foregoing purposes, including the right to grant easements for such purposes.

12.3 **Easements of Support.** Whenever any structure included in the Common Property adjoins any structure included in another portion of Blue Mountain Beach Development, each said structure shall have and be subject to an easement of support and necessity in favor of the other structure.

12.4 **Construction, Sales, and Leasing.** The Declarant (and its agents, employees, contractors, subcontractors and suppliers) shall have an easement of ingress and egress over and across the Common Property for construction, development, and sales or leasing purposes, including use of and access to Roads and roadways, utilities, drainage, and other amenities and facilities within the Common Property as necessary.

12.5 **Reservation.** The Association reserves the right and easement of ingress and egress and to use such portions of the Property as are necessary for roads, access, utilities, cable television, drainage and other purposes necessary to serve and support and provide access to any additional property or neighboring property which is not subject to the terms hereof.

12.6 **Clubhouse.** Declarant expressly declares, reserves and excepts, access and development easements, easements of use of all utility and drainage services, and rights of ingress, egress and access, across the Common Property, for the benefit of the Club Property, as necessary in connection with the development and use of the Club Property, and for the benefit and use of the members, patrons, invitees, employees and agents of the Club Property and/or the Declarant, all with no cost or expense whatsoever to Declarant, the Club, or to any of the members of the Club. Included in this reservation, grant and declaration of easement rights are easements for use, maintenance, repair and replacement of all easement rights, services, lines, pipes, wires, ducts, cables and conduits, and similar utility facilities located within the Common Property on behalf of the Club Property; ingress and egress easements, and full access to the Club Property across any and all portions of the Common Property which are utilized for roads, roadways, walks or other access, and full access and use of parking areas; all drainage, Irrigation System and Water Management System rights of use and easements appropriate, necessary or advisable in order to properly serve the Club Property; rights to place and maintain signage on and upon the Common Property as to the location, facilities and services of the Club Property and the facilities and amenities therein and thereof; as well as easements of support, and construction easements for development, construction and access to the Club Property.

12.7 **Binding Effect.** The easements and other rights arising from this Article 12 shall be continuing covenants running with the land comprising the Club Property and the Common Property and all other lands subject to this Declaration, and shall be binding upon and constitute benefit and burdens to all parties and their successors and assigns hereafter having any interest in

any of such Property.

12.8 **Beach Access.** Declarant hereby gives and grants a non-exclusive easement, for the benefit of the general public, for the limited purposes only of pedestrian and vehicular ingress, egress, and access, over and across the walkway, biking path, and roadway on and across the Property, and across the Club Property, leading directly from the public way to the beach, and now or hereafter used or necessary for direct access to the beach, for purposes of public beach access, and for no other purpose.

12.9 **Further Information.** See Section 14.14 for further reference regarding this Article.

### **ARTICLE 13 AMENDMENTS**

Except as elsewhere provided herein, this Declaration may be amended in the following manner:

13.1 **Proposal of Amendments.** An amendment to the Declaration may be proposed by a resolution adopted by a majority of Directors or written consent of thirty percent (30%) of the entire voting interest.

13.2 **Notice.** The subject matter of all proposed amendments shall be included in the notice of any meeting at which a proposed amendment is to be considered.

13.3 **Adoption of Amendments.** An amendment so proposed may be approved by the affirmative vote or written consent of not less than two-fifths (2/5) of the entire voting interest. Amendments correcting errors, omissions, scrivener's errors, violations of applicable law, or conflicts between the Governing Documents, may be executed by the Officers of the Association, upon approval of  $\frac{3}{4}$  of all directors, without need for Association membership vote.

13.4 **Execution and Recording.** An amendment shall be evidenced by a certificate of amendment from the Association that must include recording data identifying the Declaration and be executed in the form required for execution of a deed. An amendment of the Declaration is effective when properly recorded in the public records of Walton County, Florida.

13.5 **Automatic Amendment.** Whenever Chapter 720, Chapter 617 or other applicable statutes or administrative regulations, as amended from time to time, are amended to impose procedural requirements less stringent than set forth in this Declaration, the Board may operate the Association pursuant to the less stringent requirements without the need to change this Declaration. The Board of Directors, without a vote of the Members, may also adopt by majority vote, amendments to this Declaration as the Board deems necessary to comply with such operational changes as may be authorized by future amendments to 617 and 720 of the Florida Statutes, or other statutes or administrative regulations as required for the operation of the Association, all as amended from time to time.

13.6 **Prohibited Amendments.** Notwithstanding the foregoing or anything else in this Declaration to the contrary, no amendment to this Declaration affecting the rights and easements described in Section 2.1 through 2.5, Article 12, or Section 14.13 of this Declaration shall be

effective without the prior written consent of one hundred percent (100%) of the title holders of record benefited by such rights and easements.

## **ARTICLE 14 GENERAL PROVISIONS**

14.1 **Enforcement.** This Declaration, the Articles of Incorporation, and the By-Laws and Rules and Regulations promulgated under any of the foregoing, may be enforced by the Master Association, as follows:

(a) Breach of any of the covenants contained in this Declaration, Articles or By Laws or of the Rules and Regulations promulgated thereunder, and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings by any Member, Owner, or the Master Association. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorneys' fees in an amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs.

(b) The remedies herein provided for breach of the covenants contained in this Declaration, the Articles or By-Laws or Rules and Regulations shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(c) The failure of the Master Association to enforce any of the covenants contained in this Declaration, the Articles or By-Laws or Rules and Regulations shall not constitute a waiver of the right to enforce the same thereafter.

(d) A breach of the covenants, conditions or restrictions contained in this Declaration, the Articles or By-Laws, shall not affect or impair the lien or charge of any Mortgage made in good faith and for value on any Unit, provided, however, that any subsequent Owner of such Unit shall be bound by said covenants, whether such Owner's title was acquired by foreclosure sale or otherwise.

(e) The covenants, conditions and restrictions contained in this Declaration, the Articles, and By-Laws, and Rules and Regulations promulgated under any of the foregoing and hereafter adopted, shall be enforced by such means as the Master Association deems necessary and appropriate, including recourse to civil authorities, court action if necessary, and monetary fines in accordance with a schedule to be prepared by the Master Association from time to time, and to be charged and assessed by the Master Association uniformly against Owners of Units who violate or whose guests or Unit Occupants violate such Rules and Regulations. Such fines shall be charged and assessed against the subject Unit and may be enforced and collected as a Special Assessment in the same manner as an assessment for Common Expenses, including the foreclosure of a lien therefor.

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

14.3 **Term and Binding Effect.** The covenants and restrictions of this Declaration shall run with the land and title and bind the Property hereby encumbered, and shall inure to the benefit

of and be enforceable by the Master Association, the Members and the Owners of Units subject to this Declaration, their respective legal representatives, heirs, successors and assigns, and all persons or entities who have any interest in the Property, for a term of twenty-one (21) years from the date this Declaration is recorded, after which time said covenants, conditions, grant or reservation of easements, equitable servitude and restrictions shall automatically be extended for successive periods of ten (10) years each unless an instrument, approved by the Members by a vote of seventy-five percent (75%) of the Membership votes entitled to be cast, has been recorded, agreeing to change said covenants and restrictions in whole or in part.

14.4 **Interpretation.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of Blue Mountain Beach Development as a resort community. The article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

14.5 **No Public Right or Dedication.** Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Common Property to the public, or for any public use.

14.6 **Constructive Notice and Acceptance.** Every person who owns, occupies or acquires any right, title, estate or interest in or to any Unit or other portion of Blue Mountain Beach Development does and shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in such property.

14.7 **Notices.** Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered three (3) business days after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Master Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Master Association. Such address may be changed from time to time by notice in writing to the Master Association.

14.8 **No Representations or Warranties.** No representations or warranties of any kind, express or implied, have been given or made by Developer or its agents or employees in connection with any portion of the Common Property, their physical condition, zoning, compliance with applicable laws, sale, leasing, operation, maintenance, cost of maintenance, taxes or regulation thereof, except as specifically and expressly set forth in this Declaration and except as may be contained in documents filed by Declarant from time to time with the Florida Division of Land Sales and Condominiums.

14.9 **Litigation.** No judicial or administrative proceedings or similar claim or litigation shall be commenced by the Master Association unless approved at a duly noticed meeting by a vote of forty percent (40%) of the Member votes eligible to be cast, and unless at such meeting an assessment amount is established against the Members to finance such litigation. This section shall



not apply however, to:

(a) Actions brought by the Master Association to enforce the provisions of this Declaration, Master Association documents, or Rules and Regulations, including, without limitation, the foreclosure of liens;

(b) The imposition and collection of assessments and the payment of other obligations of the Members to be collected by the Association hereunder, including Common Assessments and Special Assessments;

(c) Proceedings involving challenges to ad valorem taxation;

(d) Counterclaims brought by the Master Association in proceedings instituted against it.

**14.10 Security.** The Master Association makes no representations whatsoever as to the security of the Property, or the effectiveness of any monitoring system, guardhouse, entry gate, or security service, if any. All Members agree to hold the Master Association harmless from any loss or claim arising from the occurrence of any crime or act on or within the Property. The Master Association shall in no way be considered insurers or guarantors of security within the Property. The Master Association shall not be held liable for any loss or damage by reason or failure to provide adequate security or in effecting the security measures undertaken, if any. All Owners and Occupants of any Units acknowledge that the Master Association does not represent or warrant that any fire protection system, burglar alarm system, gatehouse, or other security systems, if any, designated by or installed by them may not be compromised or circumvented; nor that any fire protection system, burglar alarm system, gatehouse, or other security systems, will prevent loss by fire, smoke, burglary, theft, hold up or otherwise; nor that fire protection system, burglar alarm system, gatehouse, or other security systems will in all cases provide the protection for which the system is designed or intended. Each Unit Owner and Occupant of any Unit acknowledge and understand that each Unit Owner and/or Occupant assumes all risks for loss or damage to persons or structures, and consents thereto. Each Unit Owner and Occupant further acknowledges that the Master Association has not made any warranty or representation, expressed or implied, including any warranty of merchantability or fitness for a particular purpose, relative to any fire and/or burglar alarm system or other security systems recommended or installed, if any.

**14.11 Cable and Telecommunication Systems.** The Association does hereby reserve unto itself, the power and authority, but not the obligation, to contract for, construct or install over, through, under, across and upon any portion of the Property for the use of the Owners, one or more cable and/or telecommunication receiving and distributions systems and electronic surveillance systems, emergency, medical or surveillance monitoring or alarm systems (all or any part of which shall be referred to herein as the "System"), the exact description, location and nature which may not have been yet fixed or determined. The Association shall have and hereby reserves to itself and its assigns a perpetual and exclusive right, privilege, easement and right of way for the installation, construction and maintenance of the System, together with perpetual and exclusive right and privilege of:

(a) Unlimited ingress and egress to and across the Property for installing,

constructing, and inspecting, repairing, maintaining, altering, moving, improving and replacing the facilities and equipment constituting the System;

(b) Transmitting and signal distribution, the facilities and equipment for which shall be owned and exclusively controlled by Association, or its successors or assigns. The Association shall have the right to enter contracts for the exclusive provision of the System, as Association shall deem, in its sole respective discretion, to be in the best interest of the Property. Every Unit Owner subscribing to the services provided by the System agrees that such Unit Owner shall be subject to the charges therefore, which may be included within the Common Assessments, Special Assessments, or an individual assessment to said Unit Owner. The Association may use portions of the Property for the services to be provided by the System in their sole discretion.

**14.12 Additions and Alterations.** There shall be no material alterations or substantial additions to the Common Areas or Association real property by the Master Association, except as authorized by the Board of Directors. Provided, however, that if any such alterations or additions require or obligate the expenditure of Association funds of more than twenty five percent (25%) of the Association's budget for the fiscal year in which the work is authorized, the Board shall obtain approval of a one-half (50%) of voting interests present (in person or by proxy) and voting at an Association meeting, or by written agreement of one-half (1/2) of the entire voting interests. Necessary maintenance of the Common Areas, or Association Property regardless of the level of expenditure, is the responsibility of the Board of Directors.

**14.13 Blue Mountain Beach Litigation Settlement.** Notwithstanding anything else in this Declaration to the contrary, pursuant to Section 2 of the Common Interest Agreement, Owners of Units in BMB Condominium and members of BMB Condominium Association have retained the rights and easements described in the foregoing Sections 2.1 through 2.5 of this Declaration, in addition to those described in Article 12 hereof, it being the intent of the parties to various lawsuits involving Blue Mountain Beach Development and settled, in part, pursuant to the terms of the Common Interest Agreement, that: (a) BMB Condominium no longer be subject to this Declaration; (b) BMB Condominium Association no longer be a member of the Master Association; (c) the above-referenced rights and easements the preserved for the benefit of such Units Owners; (d) subject to the rights of such Unit Owners to approve or reject any amendment pursuant to Section 13.5 here, no Owner within BMB Condominium Association has voting rights in the Master Association; and (e) such Unit Owners no longer be subject to any obligation to pay assessments, dues, or fees pursuant to the terms of this Declaration. Any conflict between the terms hereof and those set forth in the Common Interest Agreement shall be resolved by reference to the intent of the parties to the above-referenced settlement as such intent is expressed in the terms and provisions of the Common Interest Agreement.

**14.14 References to "Club Property" and "Clubhouse."** As of the date of recording of this Amended and Restated Master Declaration of Covenants, Conditions, and Restrictions for Blue Mountain Beach Development, the concepts originally provided in the Declaration referencing the "Club Property" and the "Clubhouse" are obsolete. The Club Property was not developed nor was the Clubhouse. However, the Amendment to the Declaration recorded in the Official Records of Walton County, Florida, at Book 2738 and Page 4655 prohibits any amendment to Article 12 (which incorporates references to the Clubhouse). As such, to the extent the Association is legally entitled to strike or ignore such references, it is the intention of the Association to do so.

14.15 **Additional Property.** As part of the original development of the Property, there is property known as Parcel Nos. 01-3S-20-34000-009-0090 and 01-3S-20-34000-009-0021 which were intended to be built into condominium Units. As of the recording of this Amended and Restated Declaration, each of those parcels is undeveloped but is considered its own Unit and assessed and votes accordingly. However, those parcels are intended to have twenty-four (24) additional condominium Units constructed on those parcels. Those developed condominium Units will become part of the Association, subject to this Declaration, and governed by its own Constituent Association and its governing documents. Upon the sale from the Developer of those Units, (or when the completed Units are no longer for sale in the ordinary course of business), the Developer of said Unit(s) shall pay a capital contribution to the Association in the amount of 1/144 of the greater amount of either the appraised value of the Master Association assets or \$2,000,000. The last three units sold will not pay a capital contribution. However, the capital contribution per Unit will not exceed \$25,000, even if the appraised value results in a higher amount. Any capital contribution not paid by the Developer (with the exception of the last three units sold) upon sale of a Unit shall become an assessment against the Unit, payable immediately by the new Owner. Upon payment of the capital contribution as provided herein, each Unit and its subsequent Owner shall become Members of the Association.

14.16 **Excluding or Exempting Property.** The Developer of the Community included several parcels of property on Redfish Circle and Snapper Street in the Association and subjected them to the restrictions contained herein. Those properties are not contiguous with the main portion of the Community along Village Boulevard, and as such, arguably do not receive the same benefits of the Association as do the properties along Village Boulevard. The Board may, but it is not required to, exclude or exemption any or all of those properties from the Association or convert those owners/properties to Class "C" members (provided that their fee for being such a member does not exceed the Association's annual assessment). Notwithstanding the above, the rights of these owners/properties to be members of Association may not be altered (unless via an amendment to the Declaration that likewise affects all Owners) without those affected owners written consent.

14.17 **Occupancy Limits.** For each occupied Unit, the number of guests or occupants is limited to two people (2) per bedroom plus an additional two (2) people. For a five (5) or more bedroom unit, the maximum number of guests is fourteen (14). The number of bedrooms in a Unit is defined by the approved plan and not how many rooms are used in a Unit.

14.18 **Short-Term Rentals.** Units may not be rented or leased for periods of less than three (3) consecutive days.

14.19 **Error or Omissions.** Inherent with any amendment to a declaration of covenants and restrictions is that the property rights of Owners and Units subject thereto are altered. However, it is not the intention of the Owners to fundamentally change the scheme of the Property via this Amended and Restated Declaration. There has been litigation affecting the rights contained in the Declaration along with a variety of amendments affecting the rights contained in the Declaration. This Amended and Restated Declaration is not intended to violate the litigation settlement or prior or subsequent amendments to the Declaration. In other words, this Amended and Restated Declaration is not intended to add or remove real property from the Association or change any provision that was not authorized to be changed. This Amended and Restated Declaration does

intend to change the voting scheme, change the burden of assessments from the Constituent Associations to the Owners themselves, address aspects of the Declaration that were never completed or have become obsolete, and improve the efficient operation of the Property and Association. However, if any provision of this Amended and Restated Declaration is prohibited by a prior limitation contained in the Declaration or amendment, against a prior settlement agreement, or unintentionally fundamentally alters an essential property right of an Owner, the Amended and Restated Declaration may be amended by approval from two-thirds (2/3) of the Master Association Directors and a majority of each of the Constituent Association Directors to address just that provision or property right which has been unintentionally added, altered, or omitted.