

This instrument prepared by & return to:
Derek W. Eisemann, Esq.
Michael J. Belle, P.A.
2364 Fruitville Road
Sarasota, FL 34237

6/3/2021 3:47 PM
KAREN E. RUSHING
CLERK OF THE CIRCUIT COURT
SARASOTA COUNTY, FLORIDA
SIMPLIFILE Receipt # 2688954

CERTIFICATE OF AMENDMENT

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
BERKSHIRE PLACE PHASE II**

We hereby certify that the attached Amended and Restated Declaration of Covenants, Conditions and Restrictions for Club Villas of Berkshire Place Association, Inc., was approved and adopted at the special meeting of the Association held on April 13, 2021. The Amended and Restated Declaration of Covenants, Conditions and Restrictions were adopted as required under Article 9.1 of the Declaration of Covenants, Conditions and Restrictions for Berkshire Place Phase II, and the number of votes cast for the amendment was sufficient for approval. The original Declaration of Covenants, Conditions and Restrictions for Berkshire Place Phase II was recorded at Official Records Book 2708, Page 429, et seq., of the Public Records of Sarasota County, Florida. The Association further certifies that the amendments were proposed and adopted as required by the governing documents and applicable law.

DATED this 6 day of May, 2021.

Signed, sealed and delivered in the presence of :

Club Villas of Berkshire Place Association, Inc.

By: Cynthia Van Zandt
Cynthia Van Zandt, President

Attest:

By: Dorothy D'Alexandro
Dorothy D'Alexandro, Secretary

[Signature]
Print Name: Barbara L O'Grady
[Signature]
Print Name: Bardee Tokajer

STATE OF FLORIDA }
COUNTY OF SARASOTA }

The foregoing instrument was sworn to and acknowledged before me by means of physical presence or online notarization, this 6th day of May, 2021 by **Cynthia Van Zandt**, as **President of Club Villas of Berkshire Place Association, Inc., on behalf of the corporation, who is personally known to me** or who has produced _____ as identification.

[Notary Seal]



[Signature]
Notary Public
My Commission Expires:

**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
BERKSHIRE PLACE PHASE II Revised 2021**

THIS AMENDED AND RESTATED MASTER DECLARATION, is made on the date hereinafter set forth by the Club Villas of Berkshire Place Association, Inc., a Florida corporation. The Association hereby declares that the real property described on the attached Exhibit "A" shall be held, sold and conveyed subject to the restrictions, covenants and conditions declared below, which shall be deemed to be covenants running with the land and imposed on and intended to benefit and burden each Lot, Dwelling, Parcel and other portions of the Property in order to maintain within the Property a residential area of high standard.

ARTICLE I

DEFINITIONS

- 1.1(a) "ACC" shall mean the Architectural Control Committee and generally functioning as provided in Article V, Section 2.
- 1.1(b) "Articles" shall mean and refer to the Articles of Incorporation of the Association, including any and all amendments or modifications thereof.
- 1.2 "Association" shall mean and refer to Club Villas of Berkshire Place Association, Inc., a Florida corporation not for profit, its successors and assigns.
- 1.3 "Board of Directors" or "Board" shall mean and refer to the Association's Board of Directors.
- 1.4 "Bylaws" shall mean and refer to the Bylaws of the Association, including any and all amendments or modifications thereof.
- 1.5 "Common Area" or "Common Areas" shall mean all portions of the Property now or hereafter owned by the Association for the common use and enjoyment of the Owners.
- 1.6 Intentionally Deleted.
- 1.7 "Declaration" shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Berkshire Place Phase II, as modified and amended from time to time.
- 1.8 "Dwelling" shall mean and refer to each and every attached single-family dwelling Unit attached to a party wall and constructed on any one Lot. For example, there shall be one Dwelling located on Lot 1A and one Dwelling located on Lot 1B.
- 1.9 "Lot." shall mean and refer to any plot of land shown on any recorded plat or subdivision map of the Property or any part thereof, with the exception of Common Areas or areas deeded to a governmental authority or utility, if any.
- 1.10 "Master Association" shall mean Waterford Master Owner's Association, Inc., its successors and assigns.

1.11 "Master Declaration" shall mean the Master Declaration of Covenants, Conditions and Restrictions for Waterford recorded in the Sarasota County Official Records as Instrument Number, as modified and amended from time to time.

1.12 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.13 "Property" shall mean that certain real property herein before described on attached Exhibit "A", and such additions thereto as may hereafter be brought within the jurisdiction of the Association (if any).

ARTICLE II

PROPERTY RIGHTS

2.1. Owner's Easement of Enjoyment. A non-exclusive easement is hereby established over all portions of the Common Area, for ingress and egress to and from all portions of the Property, and for maintenance of the Common Area and all of the Dwellings, for the benefit of the Association, all owners and residents of the Property, and their invitees and licensees, as appropriate, subject to the following:

(a) the right of the Association to suspend the voting rights and right to use of recreational facilities, pool, or pool area, if any, within the Common Area by the Owner for any period during which any assessment against such Owner's Lot remains Unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations, whether or not such Owner had actual knowledge of such rules and regulations at the time of the infraction.

(b) the right of the Association to dedicate or transfer all or any part of the Common Area to any person or entity, including but not limited to the Owner of any Lot or Lots, or any public agency, authority or utility for such purposes and upon such conditions as may be agreed to by a majority in interest of the members of the Association, provided that any such transfers (i) do not materially adversely affect any Owner unless such owner has expressly consented to such transfer, and (ii) do not violate the intention of this Declaration.

(c) all provisions of this Declaration, any additional covenants and restrictions of record, any plat of all or any part or parts of the Property, and the *Articles of Incorporation* and *Bylaws*.

(d) rules and regulations adopted by the Association governing Use and enjoyment of the Common Area.

(e) any right of the City of Venice, Florida, and/or the Master Association, upon the failure of the Association to do so, to maintain such portions of the Common Area as are designated on any plat as being for drainage purposes, and to record a lien against such Common Areas to secure payment by the Association for the cost of such maintenance.

2.2 Common area. The Common Area shall be for the use and benefit of the Owners and residents of the Property, collectively, for any proper use. Any Owner may delegate the right to enjoyment of the Common Area to such Owner's tenants or contract purchases who reside on the Property, but shall not thereafter be permitted to use the Common Area for so long as such right to enjoyment is delegated.

The Common Area shall be used by each Owner or resident of a Dwelling in such a manner as shall not abridge the equal rights of other Owners and residents to the use and enjoyment thereof. Each Owner shall be liable to the Association for any and all damage to the Common Area and any personal property or improvements located thereon, caused by such Owner, his family, invitees, lessees, or contract purchasers, and the cost of repairing same shall be a lien against such Owner's Lot or Lots. The provisions of Section 6.5 regarding interest, costs and attorneys' fees shall apply to the lien established in this Section 2.2.

2.3 Reciprocal Easements. There shall be reciprocal appurtenant easements between each Lot and the portion or portions of the Common Area adjacent thereto, or between adjacent Lots, or both, for (i) encroachments caused by footers and eaves of any Dwelling over the side, front or rear lot line of any Lot, provided that no such encroachment shall be greater than two feet (2') or shall interfere with any utilities installations upon the Lot which is encroached upon, (ii) encroachments caused by the unwilful placement, settling, or shifting of any improvements constructed, reconstructed or altered thereon in accordance with the terms of this Declaration, (iii) access to, maintenance and repair of utility facilities serving more than one Lot, and (iv) access to an adjacent Lot as reasonably required in order to complete construction of and maintain a Dwelling on any Lot, provided that this construction and maintenance easement shall not apply to any portion of a Lot on which a Dwelling or any portion thereof is already erected. Without limiting the generality of the foregoing, in the event an electrical meter, electrical apparatus, CATV cable or other utilities apparatus is installed within a Lot and serves more than such Lot, the owners of the other Lot(s) served thereby shall have an easement for access to inspect and repair such apparatus, provided that such easement rights shall be exercised in a reasonable manner and the Owner of the Lot encumbered by the easement shall be reimbursed for any significant physical damage to his Lot as a result of such exercise.

2.4 Party Wall Easements. The Owner of each Lot is hereby granted a non-exclusive perpetual easement over and across such portion of any adjoining Lot as may be reasonably necessary for the support, maintenance or replacement of any party wall serving the Owner of any Lot or other improvements serving the Owner of any Lot which, by virtue of overhangs, inaccuracies in construction or settlement or movement of any improvements, encroach upon such adjoining Lot.

2.5 Easements for Utilities and Drainage. Perpetual nonexclusive easements for the installation and maintenance of Utilities and drainage facilities are hereby reserved to over all utility and drainage easement areas shown on any plat of the Property or any part thereof now or hereafter recorded, or encumbered by recorded easements as of the date of recording hereof (which easements shall include, without limitation, the right of reasonable access over Lots to and from the easement areas). The Association, with the approval of a majority of members, shall have the right hereafter to convey such additional easements, permits and licenses encumbering the Common Area as may be deemed necessary or desirable on an exclusive or non-exclusive basis to any person, corporation or governmental entity. Further, an easement is hereby reserved over all portions of the Property for installation and maintenance of electrical apparatus, CATV facilities, or other apparatus for any utilities now or hereafter installed to serve any portion of the Property, in favor of the provider of such utilities, including without limitation Florida Power and Light Company, provided, however, no such apparatus or facilities shall be installed within a Lot or Dwelling so as to unreasonably interfere with the use thereof by the Owner, nor shall such facilities hinder the Association in the exercise of its rights hereunder. The specific location of any such apparatus or facilities, and the granting of specific easements therefore in

favor of the providers of any such utilities, shall be determined by and within the powers of the Association. A specific easement five feet (5') in width and directly adjacent to the road right-of-way abutting each Lot is also reserved for Florida Power and Light Company for the installation, operation and maintenance of electrical apparatus. Further, specific easements (except as otherwise indicated on the recorded plat), are hereby reserved on, under, across and through those portions of the Lots indicated below which are immediately adjacent to the lot lines indicated below, for the installation and maintenance of utilities to serve each of the Lots lying on either side of said lot lines:

(i) as to each Lot, five feet (5') in width from the rear lot line;

(ii) as to each Lot, five feet (5') in width from the side lot line; however, where an area greater than one lot is used as a building site, the outside boundary of said site shall be subject to the described lot line easements;

(iii) as to each Lot, ten feet (10') in width from the front lot line.

The easement rights reserved pursuant to this section shall not impose any obligation on the Association to maintain any easement areas or install or maintain the utilities or improvements that may be located in, on or under such easements, or which may be served by them, but the Association shall have the maintenance obligations imposed elsewhere in this Declaration. Within such easement areas no structure, planting, or other material shall be placed or permitted to remain which may damage or prevent access to, or the installation and maintenance of, the easement areas or any utilities or drainage facilities, or which may change the direction or obstruct or retard the flow of water through drainage channels in such easement areas, or which may reduce the size of any water retention areas constructed in such easement areas. However, subject to the following provisions regarding maintenance and repairs, and subject to the architectural approvals described in Article V, the following shall be permitted to encroach upon or be constructed and maintained within the easement areas described in this Section 2.5: roof overhangs or eaves; air conditioning or heating equipment; pool equipment; any walls or hedges screening air conditioning, heating and/or pool equipment from public view; driveways; sidewalks; walls; fences; and/or gates. Any improvements within easement areas shall be constructed and maintained at the risk of the Owner, and any damage to such improvements caused by utilization of the easements shall be repaired at the Owner's expense, except as follows. In the event a driveway, sidewalk, wall, fence, gate or landscaped area must be partially removed or damaged in order to gain access to any utilities facilities serving any Lot other than the Lot on which the damaged area is located, and provided the need for access is not due to the fault of the Owner of the Lot on which the damaged area is located, the cost of repair of the damaged area shall be borne by (i) the Association, if more than one Lot is serviced by the utilities facilities to which access is needed, or (ii) if only one Lot is served by such utilities, the Owner of such Lot. The Owner of any Lot subject to an easement described herein shall acquire no right, title or interest in or to any poles, wires, cables, conduits, pipes or other equipment or facilities placed on, in, over or under the portion of the Property which is subject to such easement. Subject to the terms of this Declaration regarding maintenance by the Association, the easement areas of each Lot and all above-ground improvements in such easement areas shall be maintained continuously by and at the expense of the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. With regard to specific easements for drainage, The Association shall have the right, but without obligation, to alter the

drainage facilities therein, including slope control areas, provided any such alteration shall not materially adversely affect any Lot unless the Owner of such Lot shall consent to such alteration.

2.6 Master Association and Association Easement. The Master Association, the Association, and their respective grantees, successors, legal representatives, agents and assigns, an easement for access and maintenance purposes to, over and across all portions of the Property and the right to enter upon each Lot for the purpose of exercising their respective rights and obligations Under this Declaration. Absent emergency conditions, entry into any Dwelling shall not be made without the consent of the owner or occupant thereof, except pursuant to a valid court order. An Owner shall not arbitrarily withhold consent to such entry for the purpose of discharging any duty or exercising any right granted by this Article, provided such entry is upon reasonable notice, at a reasonable time, and in a peaceful and reasonable manner.

2.7 Intentionally Deleted.

ARTICLE III

THE ASSOCIATION

3.1 Powers and Duties. The Association shall have the powers and duties set forth herein and in the Articles and Bylaws, including the right to enforce the provisions of this Declaration, the right to collect assessments for expenses relating to the Common Areas, and such additional rights as may reasonably be implied therefrom. As provided in the Bylaws, the Association may by written action without a meeting take any action authorized hereunder to be taken at a meeting.

3.2 Membership. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and shall not be transferred separately from the ownership of any Lot.

3.3 Voting Rights.

(a) Voting members shall be all Owners and shall be entitled to one (1) vote for each Lot owned. When more than one person or entity holds an ownership interest in a Lot, all such persons shall be entitled to one (1) vote, to be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any one (1) Lot. If more than one Owner of a Lot attempts to vote on any issue and the attempted votes are not in agreement, no vote shall be counted as to such Lot.

(b) Intentionally Deleted.

3.4 Services. The Association may obtain and pay for the services of any *licensed and insured* person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper discharge of its duties as described in this Declaration, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with its operations or the enforcement of this Declaration. The Association shall provide for maintenance of:

(a) Common Areas;

(b) all swales, ditches, retention and detention ponds within the Property, wherever located, including but not limited to, mowing, fertilizing and irrigation thereof, as necessary, unless otherwise the responsibility of WMOA to maintain as set for in the governing documents of the Master Association;

(c) all landscaping within the Property other than the following, which shall be the responsibility of the Lot Owner: (i) maintenance and replacement of annual plants and mulching of flower beds on any Lot, and (ii) landscaping installed on any Lot by an owner with Board of Directors approval on the condition that the owner maintain same;

(d) all lawns within the Property, including mowing, edging and fertilizing thereof;

(e) the exterior painting of all Dwellings, including, exterior doors, garage doors and front entranceway doors, to the extent the exterior painting is limited to the exterior portion of any door, garage door, and front entranceway, but, excluding roofs, lanais and screened porches (including any door within said lanais or screened porches), to be paid for by special assessment;

(f) the exterior cleaning of all roofs, to be paid for by the Association;

(g) all sidewalks and walks serving more than one Lot, if any, or serving the recreation area;

(h) maintenance, repair, and replacement of courtyard walls and boundary or rear walls (excluding party walls) by special assessment; and

(i) all sprinkler or other irrigation systems and all water used for irrigation within the Property. Any repair or replacement of the irrigation system is to be made by special assessment.

The Association may arrange with others to furnish other common services to each Lot, and the cost thereof may be included in the assessments for maintenance described in Article IV below. In the event any landscaping or any planting shall die or be destroyed by any cause whatsoever, the Association shall not be responsible for such loss or damage, and shall have no responsibility, but shall have the option, to replace such item or items at its expense. The Association shall arrange with the City of Venice for the acceptance of treated effluent for irrigation purposes as soon as the City of Venice makes such effluent available, and each Owner is obligated to accept such effluent for irrigation of such owner's Lot. At such time as the City of Venice makes such effluent available, the Association shall install a meter to measure the effluent used for irrigation and any other facilities necessary to provide effluent to the Property for irrigation purposes. The Association shall bear the initial cost of such meter and other facilities and may thereafter levy a special assessment against the Owner to recoup its expenditure as provided in Section 4.6.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

4.1. Creation of the Lien and Personal Obligation for Assessments. The Association, for each Lot, Dwelling and Parcel within the Property, hereby covenants, and each Owner of any Lot, Dwelling or Parcel by acceptance of a deed or other conveyance thereto, whether or not it shall be so expressed in such deed or conveyance, is deemed to covenant and agrees to pay to The Association: (1) annual assessments or charges; and (2) special assessments or charges against a particular Lot, Dwelling or Parcel as may be provided by the terms of this Declaration. Such assessments and charges, together

with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a lien upon the property against which such assessment is made. Each such assessment or charge, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them, provided, however, that the lien therefore shall remain valid and in full force and effect. The provisions of Section 6. 5 regarding interest, costs and attorney's fees and foreclosure shall apply to the lien established in this Section 4.1.

4.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and authorized residents of the Property, including expenditures made and liabilities incurred by the Association in connection with its rights and obligations hereunder, including the improvement and maintenance of the Common Area and other property to be maintained by the Association hereunder. The Association shall, if directed by the Master Association, also collect all assessments due from its members to the Master Association, and shall remit same to the Master Association as required. Notwithstanding the Undertaking by the Association to collect and pay assessments due to the Master Association, which is for convenience only, failure of any Owner to pay its Master Association assessments in full shall not subject the Association or any other Owner to liability, and the Association is authorized to report to the Master Association all Owners who have failed to pay Master Association assessments, who shall then be subject to the collection procedures and lien rights of both the Association and the Master Association.

4.3 Reserves. The Association may, in the discretion of a majority of its Board of Directors, establish and maintain, out of regular maintenance assessments, reserve funds for the periodic maintenance, repair, and replacement of improvements within the Common Area and other improvements which the Association is obligated to maintain hereunder.

4.4 Maximum Annual Assessment. The Board of Directors may fix the annual assessments at an amount not in excess of the maximum stated herein, including authorized increases.

(a) The maximum annual assessment may be increased each year by not more than fifteen percent (15%).

(b) The maximum annual assessment may be increased above the maximum increase permitted under subsection 4.4(a) by a majority vote of the members of the Association who are voting in person or by proxy, at a meeting duly called for this purpose.

4.5 Date of Commencement of Annual Assessments: Due Dates.

(a) Intentionally Deleted.

(b) Intentionally Deleted.

(c) The Board of Directors shall fix the amount of the annual assessment against each Lot for each annual assessment period. In the event of a delay in establishing an annual assessment, an otherwise proper assessment may be collected retroactively. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of

the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

4.6 Special Assessments. The Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of paying for exterior painting of dwellings, including the exterior portion of any exterior door, garage door, and/or front entryway door (exclusive of roofs, lanais and screened areas (or doors within any lanai or screened area), installation of a meter to measure the effluent used for irrigation, and/or defraying, in whole or in part, the cost of reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related to the Common Area, if any, provided that any such assessments in excess of \$1,500.00 per Lot per year shall have the assent by a majority vote of the members who are voting in person or by proxy, at a meeting duly called for this purpose. The foregoing requirement of a majority vote of each class of members shall not apply to a special assessment levied for the installation of a meter to measure effluent Used for irrigation as described in Section 3. 4. The Board of Directors may fix any special assessment not in excess of said limitation. Written notice of each special assessment, and the due date thereof, shall be sent to all Owners subject thereto at least thirty (30) days in advance of the due date.

4.7 Notice and Quorum for Association Meetings Regarding Assessments. Written notice of any meeting called for the members of the Association to approve annual or special assessments shall be sent to all members of the Association not less than ten (10) days nor more than twenty (20) days in advance of the meeting. At any such meeting called, the presence in person or by proxy of members entitled to cast a majority of all of the votes of membership shall constitute a quorum. Should a quorum fail to be present at such meeting, another meeting may be called without any additional formal notice requirement, and the required quorum at the subsequent meeting shall be the presence of members or of proxies entitled to cast thirty-three percent (33%) of all of the votes of each class of membership entitled to be cast on the issue. If the required quorum is again not present, another meeting may be called upon at least ten (10) days' written notice, at which meeting there shall be no quorum requirement and those present in person or by proxy shall be entitled to decide the issue. This provision is included to insure the ability of the Association to act despite non participation by its members, and shall not be subject to attack on due process or other grounds. No such subsequent meeting(s) shall be held more than sixty (60) days following the preceding meeting(s).

4.8 Rate and Collection. Annual assessments may be collected on a monthly, quarterly or annual basis, as determined from time to time by the Board of Directors. Both annual and special assessments must be fixed at a Uniform rate for all Lots, subject to the following:

(a) Where a special assessment is required to perform work on less than all Lots or Dwellings, the amount of such special assessment may be allocated only to the Lots or Dwellings on which such work is performed. Without limiting the generality of the foregoing, any costs of maintaining any structure, addition or improvement added by an Owner shall, at the option of the Association, be borne exclusively by the Owner, and his successors in interest, of the Dwelling and Lot to which such structure, addition or improvement is appurtenant, and shall be assessed only against such Lot.

(b) Intentionally Deleted.

4.9 Lien for Assessments; Remedies of the Association. All sums assessed to any Lot pursuant to this Declaration, together with interest and all costs and expenses of collection, including reasonable attorney's fees whether or not suit is filed, shall be secured by a continuing lien on such Lot in favor of the Association or any other party in whose favor the lien is granted under this Declaration. The Association or other party in whose favor the lien is granted may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Lot. All provisions of Section 6.5 shall apply to the lien for assessments established herein. No Owner may waive or otherwise escape liability for the assessments or other charges provided for herein by non-use of the common Area, or abandonment of his Lot.

4.10 Interest on Assessments. Any assessment not paid within five (5) days after the due date shall bear interest from the due date at the maximum contract rate of interest permitted by law, and there shall also be due and payable along with each such late payment a late charge of Twenty-Five and 00/100 Dollars (\$25.00) to cover increased administrative costs incurred on account of such late payment.

4.11 Subordination of the Lien to Mortgages and Master Association Lien. The Association's lien for assessments provided for herein shall be subordinate to the lien of (i) any first mortgage recorded prior to the recording of a claim of lien against the portion of the Property encumbered by such mortgage, and (ii) any lien filed by the Master Association, at any time prior to the foreclosure of the Association's lien, against the same portion of the Property as described in the Association's lien. The sale or transfer of any Lot pursuant to foreclosure of a first mortgage or a lien in favor of the Master Association, or any conveyance in lieu thereof, shall extinguish the Association's lien for assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. The Association shall, Upon written request, report to any first mortgagee of a Lot and/or the Master Association any assessments remaining Unpaid for a period longer than thirty (30) days after the same shall have become due, and shall give such first mortgagee a period of thirty (30) days in which to cure such delinquency before instituting foreclosure proceedings against the Lot; provided, however, in the case of a mortgage, that such first mortgagee shall have furnished to the Association written notice of the existence of its mortgage, which notice shall designate the Lot encumbered by a proper legal description and shall state the address to which notices pursuant to this Section are to be given. Any first mortgage holding a lien on a Lot may pay, but shall not be required to pay, any amounts secured by the lien created by this Article. The liability of a first mortgage who acquires title to a Lot, Dwelling or Parcel by foreclosure or by Deed-In-Lieu of foreclosure for unpaid assessments, and other charges that became due prior to the first mortgagee's acquisition of title is limited to the maximum permitted by Florida Statutes, Section 720.3085, as same is amended or renumbered from time to time, but if no such limitation exists, then to the same extent as any other Owner. The limitation on the first mortgagee liability provided by this paragraph shall apply only if the first mortgagee strictly complies with all conditions required by Florida Statutes, Section 720.3085, as same is amended or renumbered from time to time, the Association's lien for assessments and other charges is superior to and has priority over all mortgages, liens and encumbrances as provided above.

ARTICLE V

ARCHITECTURAL CONTROL

5.1 Architectural Control. No Dwelling, building, wall, fence, pavement, swimming pool or other structure or improvement of any nature shall be erected, placed or altered on or removed from any portion of the Property until the construction plans and specifications, plot plan, tree survey or map showing all existing trees and those trees intended to be removed, and landscaping, drainage and irrigation plans (collectively "Plans") showing the location of all structures and improvements shall have been approved in writing by the Board of Directors of the Association, as well as by the WMOA Architectural Control Committee (the "Master Committee") described in the Master Declaration. Prior to turnover, approval for the foregoing shall not be required from any sub-association. Each structure or improvement of any nature shall be erected, placed, altered or removed only in accordance with the Plans so approved. Refusal of approval of Plans may be based on any grounds, including purely aesthetic grounds, which in the reasonable discretion of the Board seem sufficient. The Board may condition its approval on such matters as it may deem appropriate, such as (but not limited to) replacement of trees removed with trees of a certain size or type. Without limiting the foregoing, any change in the exterior appearance of any Dwelling, including, but not limited to, windows, doors, exterior doors, garage doors, front entryway doors, screens, or any other part of the Dwelling that is part of the exterior, or otherwise visible from the exterior, as well as any change in the exterior appearance of any building, wall, fence, pavement, swimming pool, other structure or improvement, any material change in landscaping, and any change in the finished ground elevation, shall be a change requiring approval under this Section 5.1. Plans shall be submitted first to the ACC for approval, which shall then submit the Plans to the Board for approval and in the event the Board shall fail to approve or disapprove any Plans within thirty (30) days of submission, evidenced by a written acknowledgment of receipt, approval of such Plans shall be deemed given. After receiving approval from the Board, the Plans shall then be submitted to the Master Committee for approval.

5.2 Powers, Composition, and Liability of ACC. The assessment Architectural Control Committee shall have the power to promulgate such rules and regulations, as it deems necessary to carry out the provisions and intent of this Declaration. The Architectural Control Committee shall be composed of not less than two (2) members and no more than three (3) members. The Board of Directors shall have the absolute power to remove any member from the Committee. In the absence of specific appointment, the Board of Directors shall serve as the Architectural Control Committee. A majority of the Committee may take any action the Committee is empowered to take, and may designate a representative or agent to act for the Committee. In the event of death, removal or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant unless the Board of Directors shall elect to give compensation out of fees received for review of Plans. The Architectural Control Committee and each of its members from time to time shall not be liable in damages to anyone submitting any Plans for approval or to any Owner by reason of mistake in judgment, negligence or nonfeasance of the Committee, its members, agents or employees, arising out of or in connection with the approval or disapproval or failure to approve any Plans. The Committee shall not be responsible for the compliance of any Plans with applicable governmental rules and regulations. Anyone submitting any Plans to the Architectural Control Committee for approval, by the submitting of such Plans, and any Owner by acquiring title to any Lot, Dwelling or Parcel, agrees that such person shall not bring any action or claim for any such damages against the Architectural Control Committee, its members, agents or employees.

5.3 Certificate of Approval. To the extent applicable, upon completion of a Dwelling, the Owner thereof or the builder of the Dwelling, as the Owner's agent, shall apply to the Architectural Control Committee and Master Committee for a certificate of approval by the ACC and Master Committee ("C.A.") for the completed Dwelling, such application to be made on forms promulgated by the ACC or Master Committee. Within five (5) working days following the receipt of each application for a C.A., the ACC and Master Committee shall issue the C.A. or shall advise the applicant by telephone of any deficiencies in the application or other reason for denial of the C.A. In the event any Dwelling is occupied by any person prior to issuance of a C.A. for such Dwelling, the Owner of such Dwelling shall automatically be liable for a fine, without notice, in the amount of Fifty Dollars (\$50.00) for each day after such Dwelling is first occupied (regardless of whether such occupancy is continuous) until the C.A. is issued for the Dwelling in question. Such fine shall be payable to the Association and shall be secured by a lien against the Lot on which such Dwelling is located, in the same manner as provided in section 6.5.

5. 3 Liability of Board of Directors. The Board of Directors of the Association and each of its members from time to time shall not be liable in damages to anyone submitting any Plans for approval or to any Owner by reason of mistake in judgment, negligence or non-feasance of the Board, its members, agents or employees, arising out of or in connection with the approval or disapproval or failure to approve any Plans. The Board shall not be responsible for the compliance of any Plans with applicable governmental rules and regulations. Anyone submitting any Plans to the Board for approval, by the submitting of such Plans, and any Owner by acquiring title to any Lot, agrees that such person shall not bring any action or claim for any such damages against the Board, its members, agents or employees. Failure to enforce any provision hereof shall not establish a precedent, regardless of the length of time or the number of times that any such provision is not enforced, and failure to enforce on any given occasion or under any particular circumstances shall not preclude the Board from enforcing the same provision retroactively, on another occasion, or Under any other circumstances.

ARTICLE VI

MAINTENANCE AND COMMON AREAS; DAMAGE; INSURANCE

6.1. Maintenance of Common area and Landscaping. All of the Common Area, all lawns and landscaped areas, all personal property owned by the Association, and all of the other items specified in items (a) through (i) of Section 3.4, shall be maintained by and at the expense of the Association, unless otherwise specifically set forth herein. It is the intent and purpose of this provision that all trees, grass, shrubs and plantings; all Common Area parking spaces not maintained by the Master Association, if any; all drainage easements not maintained by the Master Association; the pool, cabana and all other commonly used recreational areas; all of the irrigation systems within the Property; and any other commonly owned facilities shall be maintained exclusively by the Association, and not by any Owner or owners individually, regardless of whether any of same are within the boundaries of any Lot, except as otherwise set forth herein. Notwithstanding the foregoing, as provided in section 3.4, the following shall be the responsibility of the Lot Owner: (i) maintenance and replacement of annual plants and mulching of flower beds on any Lot, and (ii) landscaping installed on any Lot by an Owner with Board of Directors approval on the condition that the Owner maintain same. In the event that the need for maintenance or repair is caused by the willful or negligent act of an Owner, his tenants, family, guests or invitees, the cost of such maintenance or repairs shall be due and payable from the Owner, and shall be secured by a lien against such owner's Lot as provided in Section 6. 5. The Association's maintenance responsibilities

shall extend to and include maintenance of all decorative identification sign(s) for Berkshire Place Phase II, indicating the name or location of and/or entrance to the Property, unless said responsibilities have been assumed by or designated to another individual or entity, including, but not limited to any Master Association, pursuant to a written document or declaration. This provision shall not limit the obligation of an Owner to maintain the exterior of his Dwelling, including roofs, patios, screened porches and lanais, except as specifically provided herein to the contrary with regard to exterior painting (excluding roofs) and roof cleaning.

6.2 Painting of Exterior of Dwellings and Roof Cleaning. The Association, subject to the provisions of Section 6.1 hereof, shall be responsible for the painting of the exterior of the Dwellings, including, exterior doors, garage doors and front entryway doors (painting of exterior doors, garage doors, and entryway doors, is limited to that portion of the door visible from the exterior, and does not include painting of any portion of the doors facing the interior, or otherwise not visible for the exterior), but excluding roofs, screened porches and lanais (including any doors within the screened porches or lanais), and shall be responsible for the cleaning of roofs. Such painting and roof cleaning shall be performed at such times and by such persons as may be designated by the Board of Directors, and shall be paid for by the Association as provided in Section 4.6 and Section 3.4(f). All persons with whom the Association contracts for roof cleaning services shall provide adequate insurance to protect the Association from liability for and to pay costs for repair of any roof leaks which may result from cleaning of the roofs. All other maintenance of the exterior of the Dwellings not designated herein as the responsibility of the Association shall be the responsibility of the owner.

6.3 Care and Appearance of Dwellings. Each Dwelling shall be maintained in a structurally sound and neat and attractive manner, including party walls, roofs, gutters, downspouts, glass, screened areas, mailboxes and post lights, by and at the expense of the Owner, except for the specific obligations of the Association under Section 6.2. Upon the Owner's failure to do so, the Association, through its Board of Directors, may, at its option, after giving the owner thirty (30) days' written notice sent to his last known address, make repairs and/or improve the appearance of the Dwelling in a reasonable and workmanlike manner, with funds of the Association, and with the approval of a majority of the Board of Directors. The owner of such Dwelling shall reimburse the Association for any work above required, and to secure such reimbursement the Association shall have a lien Upon the Lot enforceable as provided in Section 6.5 below.

6.4 Party Walls. The rights and duties of the owners with respect to party walls shall be governed by the following provisions:

(a) General Rules of Law Apply. Each wall built as part of the original construction of Dwellings upon adjoining Lots and placed on the dividing line between such Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article 6.4, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Without limiting the foregoing, in the event property damage is caused to a Dwelling due to the negligent act or omission of the Owner of an attached Dwelling, the negligent Owner shall be liable for such property damage.

(b) Sharing of Repair and Maintenance. The costs of reasonable repair and maintenance of a party wall shall be shared by the adjoining Owners in equal proportions.

(c) Casualty Loss. If a party wall is destroyed or damaged by fire or other casualty, then to the extent such destruction or damage is not covered by insurance and repaired out of the proceeds of insurance, the adjoining Owners shall restore the party wall, and each shall contribute one-half of the costs of such restoration. Each owner shall be responsible for insuring the portion of the party wall located on their Lot under their homeowner's policy.

(d) Damage caused by one Owner. If a party wall is damaged or destroyed by or through the act of an Owner (whether or not such act is negligent or otherwise culpable) so as to deprive the adjoining Owner of the full use and enjoyment of such party wall, then the owner responsible for such damage shall repair such damage and, to the extent such damage is not covered by insurance, shall bear the full cost of repairs. If such owner fails to repair such damage promptly, then the adjoining Owner shall effect such repairs and, to the extent the cost of such repairs is not covered by insurance, shall be entitled to contribution for such costs from the owner responsible for such damage.

(e) Contribution Runs with Land. The right of an owner to contribution from an adjoining owner under this Article 6. 5 shall be appurtenant to the land and shall pass to such Owner's successors in title.

(f) Alterations. In addition to the other provisions of this Declaration and the Master Declarations, there shall be no alteration of a party wall by an Owner in any manner materially affecting the full use and enjoyment of the party wall by the adjoining Owner without the written consent of the adjoining Owner.

6. 5 Enforcement. To secure reimbursement of the cost of performing any work described in Section 6. 3, or to secure any other sum payable by a defaulting Owner under the terms of this Declaration, and interest thereon as hereinafter provided, the Association, and in the case of any sum due to an Owner from another Owner Under the terms hereof an Owner, shall be entitled to file in the Public Records of Sarasota County, Florida, a notice of its claim of lien by virtue of this contract with the defaulting Owner. Said notice shall state the sum payable and shall contain a description of the Lot against which the enforcement of the lien is sought. The lien herein provided shall date from the time that the obligation or expense is incurred, but shall not be binding against creditors until said notice is recorded. Each Lot shall stand as security for any expense due to the Association or to another Owner pursuant to Article 4 or Article 6 hereof and for any other sums due hereunder from the defaulting Owner to the Association or to another Owner, and in connection with such Lot, and this provision shall also be binding on the Owner of such Lot at the time the expense or obligation is incurred, who shall be personally liable. The amount secured by the lien herein provided shall be due and payable upon demand and if not paid, said lien may be enforced by foreclosure in the same manner as a mortgage. The amount due and secured by said lien shall bear interest at the highest contract rate of interest permitted by Florida law from time to time, from the date of demand for payment or such other date as may be specified herein, and in any action to enforce payment the Association, or the owner to whom payment is determined to be due, shall be entitled to recover costs and attorney's fees, which shall also be secured by the lien being foreclosed. The defaulting Owner shall continue to be liable for assessments levied by the Association during the period of foreclosure, and if the Association is foreclosing the lien then all assessments levied through the date a judgment of foreclosure is entered shall be secured by the lien foreclosed. The Association or the Owner in whose favor the lien is granted shall have the right to bid at any foreclosure sale and acquire title to the Lot being sold. The lien herein provided shall be subordinate to the lien of any first mortgage recorded prior to the recording of a notice of lien, provided, however, that the holder of any such mortgage when in possession, any purchaser at any foreclosure sale, any mortgagee

accepting a deed in lieu of foreclosure, and all persons claiming by, through or under any of the same, shall hold title subject to the obligations and lien herein provided. By acceptance of a deed thereto, the Owner and spouse thereof, if married, of each Lot shall be deemed to have waived any exemption from liens created by this Declaration or the enforcement thereof by foreclosure or otherwise, which may otherwise have been available by reason of the homestead exemption provisions of Florida law, if for any reason such are applicable; this provision is not intended to limit or restrict in any way the lien or rights granted to the Association by this Declaration, but to be construed in its favor.

6. 6 Utilities, Equipment and Fixtures. All fixtures and equipment serving only one Dwelling or Lot, including without limitation, Utility lines, pipes, wires, conduits, and the like, but specifically excluding items to be maintained by the Association as set forth in Section 3.4, shall be maintained and kept in good repair by the Owner of the Dwelling served by such equipment and fixtures. In the event any such equipment and fixtures installed within the Property serve more than one Dwelling, whether or not within a Lot, the expense of maintaining and repairing same shall be shared equally by the Owners of the Dwellings served by same. Notwithstanding the foregoing, in the event any such equipment or fixtures are damaged as a result of the actions of any person or entity other than all of the Owners responsible for repairing same, the person causing the damage shall be liable for all expenses incurred by the Owner or Owners in repairing same. No Owner shall do or allow any act, or allow any condition to exist, that will impair the structural soundness or integrity of any Dwelling or impair any easement established or referenced herein, or do any act or allow any condition to exist which will or may adversely affect any Dwelling or any Owner or resident of the Property or create a hazard to persons or property. In the event a blockage or obstruction occurs in a sewer line serving more than one Lot, the cost of clearing such blockage shall be paid by the Owner reasonably deemed responsible by the Board of Directors, and if it cannot reasonably be determined which owner was responsible, the cost shall be borne equally by all Owners of Lots served by the portion of the sewer line in which the blockage occurred and shall be assessed against all such Owners. Any cost payable by an owner pursuant to this Section 6.6 which is paid on behalf of such Owner by another Owner or by the Association shall be repaid upon demand, and shall be secured by a lien upon such Owner's Lot as provided in Section 6.5.

6. 7 Damage, Reconstruction, Insurance. In the event a Dwelling or any part thereof is damaged or destroyed by casualty or otherwise, or in the event any improvements within the Common Areas are damaged or destroyed by casualty or otherwise, the Owner thereof or the Association, as the case may be, shall promptly clear all debris resulting therefrom and rebuild or repair the damaged improvements in accordance with the terms and provisions of this Declaration. Without limiting the generality of the foregoing, where grassed and/or landscaped areas are damaged or destroyed, the Owner or Association, as the case may be, shall repair and/or replace such improvements in a manner consistent with the surrounding area. Any repair, rebuilding or reconstruction on account of casualty or otherwise shall be substantially in accordance with the plans and specifications for such improvements as originally constructed or with new plans and specifications approved by the Board of Directors. Liability insurance coverage shall be obtained in such amounts as the Association may determine from time to time for the purpose of providing liability insurance coverage for the Common Areas as a common expense of all Owners. Each Owner shall at all times maintain, for each Lot owned, adequate casualty insurance to provide for complete reconstruction of all improvements on such Lot after casualty, and liability insurance coverage in such amounts as may be required by the Association from time to time. Upon request, each Owner shall have the Association named as an additional insured as to liability insurance

obtained by the Owner, and shall provide the Association with evidence of the insurance required hereunder, and each renewal of same. Upon any Owner's failure to obtain the required insurance, the Association may, after three (3) days' written notice, procure the required insurance, and the cost thereof shall be immediately due and payable from the defaulting Owner and shall bear interest and be secured by a lien as provided in Section 6.5.

ARTICLE VII

GENERAL USE RESTRICTIONS

7.1 Residential Use. All of the Property shall be known and described as residential property and no more than one single family attached Dwelling may be constructed on any Lot. Attached single family Dwellings will be located on the zero lot line between Lots with the identical numerical designation; for example, a detached single family Dwelling may be located on the zero lot line between Lots 1A and 1B. No Dwelling may be divided into more than one residential dwelling and no more than one family shall reside within any Dwelling.

7.2 Rental. Use of a leased unit is restricted as follows:

- (a) Each lease made as to any Dwelling shall be subject to the prior written approval of the Association, which shall not be unreasonably withheld, and shall bind the tenant to abide by the terms of this Declaration and all applicable rules and regulations affecting the Property.
- (b) All leases shall be subordinate to the lien rights of the Association as set forth herein, whether or not any notice of lien has been given or recorded prior to the making of any such lease.
- (c) The Association shall be provided with a copy of each proposed lease for approval as aforesaid, and may collect an administrative fee up to \$25.00, in connection with review of each lease submitted.
- (d) The Association shall approve or disapprove any lease submitted within fifteen (15) days, after receipt of all documents required by the Board as set forth in any rules and regulations established by the Board. If determined by the Board that provided documents were incomplete or shall the Board require addition documents to complete its review, the Board shall notify Owner, and after receipt of the addition documentation or necessary information shall be provided fifteen (15) days to approve or disapprove of the lease. Failure of the Association to take action shall be deemed approval of the lease as submitted.
- (e) The signature of any officer of the Association on a document approving or disapproving any lease shall be binding on the Association as to the matter set forth in said document.
- (f) No Dwelling shall be leased for a term of less than three (3) months. The right to use the Common Areas shall pass to each tenant of a Dwelling, whether or not mentioned in any lease agreement, and the Owner shall not be entitled to use the Common Areas during any period that the Dwelling is leased.
- (g) No Dwelling which is under lease from the Owner shall be occupied by more than two (2) persons for each bedroom in the Dwelling; this occupancy restriction shall apply only to tenants and not to Owners residing in a Dwelling.
- (h) As to those Units which transfer to another owner on or after March 15, 2015, the Unit may be rented or leased only after the Unit Owner has held record title to the Unit for at least one (1) full year.

(i) Entire Units only may be rented. No Unit may be subdivided and partially rented. Unit occupancy shall only be by the lessee, his family and guests.

(j) No units may be subleased.

The Board may create and amend rules and regulations from time to time setting standards for lease approvals, including, but not limited to, requiring tenants to complete Board approved applications, tenant credit score and background checks, and the Board may require such authorizations as necessary to complete any required approvals.

7.3 Structures. Each Dwelling within the Property shall be erected within a Lot, but this provision shall not impair the easement for encroachments established in Section 2.3. Any structure of any kind erected or placed within the Property must be in compliance with all applicable zoning regulations, this Declaration and the Master Declaration.

7.4 Landscaping; Sprinkling. No Owner shall cause or allow any material alteration of the landscaping within his Lot without the approval of the Board. Without limiting the generality of the foregoing, no alteration shall be permitted which would hinder lawn care or mowing, or interfere in any way with the activities of the Association in performing its duties hereunder. Any shrubs or plantings permitted to be installed on a Lot Under this Section shall be maintained by the Owner of the Lot, unless otherwise approved by the Board of Directors. All irrigation facilities within and serving a Lot shall be maintained by the Association as provided in Sections 3.4 and 6.1 and the Association shall irrigate the lawns and landscaping of all Lots as needed, subject to any limitations on water Use imposed by any governmental authority, and except for any landscaping installed by an Owner with Board of Directors approval on the condition that the Owner maintain same, Unless otherwise approved by the Board of Directors.

7.5 Single Family Homes. All Lots within the Property shall be developed only as attached single family residences; provided that the foregoing shall not prohibit the attachment or connection of privacy walls or fences to residences, walls or fences on adjacent Lots.

7.6 Architectural Plans. As provided in Section I of Article VII of the Master Declaration and Section 5.1 of this Declaration, prior to construction of any Dwelling or other improvements or structures, a complete copy of the Plans therefor, as therein described, must be submitted for approval by the Architectural Control Committee. Such Plans shall conform with the provisions of Section 7.7 through 7.18 below unless a waiver or variance is granted pursuant to section 7.35 below.

7.7 Setback Requirements. For purposes of this instrument, unless otherwise expressly provided herein, all structures attached or appurtenant to or forming a part of an attached single family dwelling unit built or to be built Upon a Lot shall be considered a part of the "Dwelling." All of the following setbacks are subject to waiver or variance, as provided in section 7.34.

As to all Lots, and except as designated on the recorded plat, the following building setbacks shall apply. No part of any Dwelling shall be located nearer than: (i) fifteen feet (15') from any point on the front lot line of any Lot; or (ii) fifteen feet (15') from any point on the rear lot line of any Lot, or (iii) five feet (5') from the side lot line of the next consecutive numerical Lot. There shall be no setback required as to the side lot lines between Lots with the same numerical designation (the "party wall" side) (for example, a five foot setback is required from the side Lot line between Lots 1B and 2A, but not from the side Lot line between Lots 1A and 1B) .

Notwithstanding the foregoing, the following shall not be deemed part of a Dwelling for the purpose of this Section 7.7, and shall be permitted to encroach Upon or be constructed and maintained within the foregoing setbacks: roof overhangs or eaves, air conditioning or heating equipment, pool equipment, and any walls or hedges screening air conditioning, heating and/or pool equipment from public view.

7.8 Features of Dwelling. All Dwellings constructed, altered or permitted to remain on any Lot shall conform to the following requirements:

- (a) All roofs of Dwellings shall be of glazed or cement tile. No aluminum or shingle roofs shall be permitted.
- (b) Any structures such as garages, porches, service or Utility rooms, guest rooms and the like shall be attached to and be an integral part of the Dwelling and shall also conform with all requirements hereof. No separate or detached structures of any type shall be permitted.
- (c) Each Dwelling shall have a ground floor heated and cooled living area of not less than 900 square feet, exclusive of the area of any garage, porches or patios, whether or not roofed.
- (d) All garages shall be of at least one (1) car capacity and shall be equipped with automatic door openers. The minimum driveway width shall be ten feet (10'). All driveways and sidewalks shall be constructed with a minimum of 3,000 PSI concrete, or as required by any applicable building code, with each drive extending to its intersection with a paved street. All sidewalks shall be constructed in accordance with building code specifications promulgated from time to time by the City of Venice, including but not limited to the current requirement for an expansion joint at the boundary between the sidewalk and driveway. Driveway, parking area and walkway design, location, materials and coloring shall be subject to Architectural Control Committee approval as provided in the Master Declaration.
- (e) No carports shall be permitted anywhere in the Property.
- (f) No screened garage doors, screened breezeways or screened courtyards shall be permitted unless approved by the Architectural Control Committee.

7.9 Unsightly Objects. All Unsightly objects, including but not limited to, side pads, air conditioning equipment, pool equipment, garbage cans, pumps, irrigation equipment and compressors, shall be constructed or stored in such a fashion as to not be visible from adjacent properties or streets. Such Unsightly objects shall be fenced, walled, hedged or otherwise enclosed by a structure or landscaping, which must be approved by the Architectural Control Committee, as provided in the Master Declaration.

7.10 Parking and Storage. No boats, commercial/work trucks, commercial vans, tractors, service vehicles or other commercial vehicles shall be permitted to remain within the Property other than for temporary parking unless parked within an enclosed garage with the garage door closed except when the boat or vehicle is being parked or removed. Trucks used as personal vehicles are permitted to the extent the truck is rated at $\frac{3}{4}$ ton or less. Temporary parking shall mean the parking of such vehicles while being used in the furnishing of services or materials to Owners, or Used by Owners for loading and unloading purposes only; no overnight parking of such vehicles shall be permitted. The provisions of this Section shall apply to boats, trucks, and utility vehicles whether used for commercial purposes or not. Notwithstanding the foregoing, a van or pickup truck for personal transportation purposes only, without advertising on the exterior, and which is not used for commercial purposes, may be parked on the

driveway of a Lot, but no Lot may have more than one such vehicle regularly parked in the driveway. All garage doors shall be kept closed except while a vehicle or other article is being placed in or removed from the garage.

7.11 Landscaping; Trees. A landscape plan shall be submitted for approval by the Architectural Control Committee prior to construction or installation of landscaping. A tree survey designating all trees with a four inch (4") or greater caliper shall be provided to the Architectural Control Committee, designating which trees, if any, are to be removed from the Lot. Each Lot shall have a minimum of (3) trees.

7.12 Yards and Lawns. That portion of each Lot, and also the unpaved portion of a street right-of-way adjoining such Lot, that is not covered by a Dwelling, patio, flower bed, driveway or walkway, shall be sodded with Floritam grass or other approved grass. "Sodded" shall be defined as the result of installing fully matured grass and not plugs or seed. The lawn shall thereafter be maintained in good condition by the Association, as provided elsewhere herein, and replaced as may be necessary. In no event shall gravel or stone yards be permitted, provided that nothing contained herein shall prohibit the Use of gravel and/or wood shavings for decorative landscaping purposes within an otherwise sodded area.

7.13 Irrigation System. All Lots shall be equipped with in ground irrigation systems for the lawn and landscaping thereon. As provided in the Master Declaration, all irrigation plans are subject to Architectural Control Committee approval. The irrigation system on each Lot shall be tapped into and made a part of the master irrigation system serving the Property.

7.14 Drainage System. As provided in the Master Declaration, all drainage system plans shall be submitted to the Architectural Control Committee for approval prior to the installation or construction of the system. All drainage systems shall conform to the then current master drainage plan for the Property as filed with the City of Venice, which shall be made available for inspection by the Architectural Control Committee; any deviations from said master drainage plan shall be specifically brought to the attention of the Committee and shall be subject to the prior written approval of the Committee before commencement of construction of such drainage facilities. Common swales located in the rear of any Lot shall not be altered without the Master Association's prior written approval.

7.15 Pools. No above-ground swimming pool shall be permitted at any time anywhere within the Property. This provision shall not be deemed to prohibit hot tubs, therapy pools and hydra spas when they are incorporated into improvements and approved by the Architectural Control Committee, even though such pools may be above grade. All pool enclosures shall be constructed to comply with applicable rules, regulations and standards of all governmental entities having jurisdiction. All pools, pool enclosure screening and caging shall be subject to approval by the Architectural Control Committee.

7.16 Standard Mailboxes. Post Lights and Identification Signs. All mailboxes, post lights and identification signs with lettering or house numbers must be constructed to specifications approved by the Architectural Control Committee, as set forth in the Master Declaration. Post lights are required on all Lots, in locations approved by the Architectural Control Committee. All post lights shall be maintained and cleaned by the Owner of the Lot on which it is located. All mailboxes shall be cleaned by the Owner and maintained by WMOA.

7.17 Sidewalks; Curbs. Sidewalks shall be installed in all neighborhoods where required by the building code requirements of the City of Venice, in accordance with the building code specifications promulgated from time to time by the City of Venice, at the expense of the Owner of the portion of the Property where such sidewalk is required. No owner shall paint or otherwise deface the sidewalk, curb or any other part of the Common Area.

7.18 Intentionally Deleted.

7.19 Commercial Uses and Nuisances. No trade, business, profession, service, repair or maintenance operation or other type of commercial activity shall be carried on upon any portion of the Property, except that real estate brokers, owners and their agents may show Dwellings within the Property for sale or lease. Notwithstanding the above, this section 7.19 shall not prohibit any trade, business, profession, service, repair or maintenance operation or other type of commercial activity carried on upon any portion of the Property, that is conducted in a manner that does not provide for visitors on the Property, does not increase traffic on the Property, and is not otherwise a nuisance to the other Owners. No illegal, noxious or offensive activity shall be permitted or carried on upon any part of the Property, nor shall anything be permitted or done thereon which is or may become a nuisance or source of embarrassment, discomfort or annoyance to the other residents of the Property. No Owner shall make any Use of the Common Area that will increase the cost of insurance above that required when the Common Area is used for the approved purposes, or that will cause any such insurance to be canceled or threatened to be canceled, except with the prior written consent of the Association. No personal property of any nature shall be parked, stored or permitted to stand for any period of time on the Common Area, except in accordance with rules and regulations promulgated from time to time by the Association, and except for personal property owned by the Association.

7.20 Intentionally Deleted.

7.21 View Obstructions.

7.22 Animals. No animals shall be kept or allowed to remain on the Property except for common household pets. Common household pets will be limited to dogs, cats, and birds. No property owner will be allowed to house more than two (2) animals at any one time on the Property. No pit bull terriers will be allowed. Residents must petition in writing to the sub-association Board of Directors for permission to have animals other than dogs, cats, or birds. The Board may deny permission for any reason they deem advisable. All dogs shall be kept on a leash while outside of the owner's Lot or Dwelling, and all animals shall be under the control of the owner at all times. No pet shall be kept outside of a villa, or in any screened porch or patio, unless someone is present in the Unit. All owners shall immediately pick up and remove any solid animal waste deposited by the pet. Non-compliance with the above rules may result in a fine. Any animal which becomes a nuisance to or creates a disturbance for any other resident of the property or their licensees or invitees may be ordered to be removed from the Property by the Board of Directors of the Association after reasonable notice to the owner of the animal and a hearing on the issue before the Board. No animals shall be kept or allowed to remain on the Property for commercial purposes, including without limitation breeding purposes.

7.23 Gas Tanks: Water Softeners. No gas tank, gas container, or gas cylinder shall be permitted to be placed on or about the outside of any of the Dwellings or any ancillary building, and all gas tanks, gas containers, and gas cylinders shall be installed underground in every instance where gas is used. In the

alternative, gas containers may be placed above ground if enclosed on all sides by a decorative enclosure or other shielding approved by the Architectural Control Committee. Provided the design, construction and installation location shall have first been approved by the Architectural Control Committee, which approval may be conditioned upon adequate enclosure or other shielding, owners may have water softener Units installed.

7.24 Garbage/Trash Collection; Mowing. No trash, garbage, rubbish, debris, waste material, or other refuse shall be deposited or allowed to accumulate or remain on any part of the Property, nor upon any land or lands contiguous thereto. All trash, garbage, and other refuse shall be stored in containers inside a garage or underground. All Owners, their successors and assigns may be billed a reasonable trash and garbage collection fee. Any Owner who allows a Lot it is supposed to maintain to become overgrown, or permits garbage or trash to collect so as to cause Unsightliness, or a fire, mosquito, rat or vermin hazard, shall by this covenant permit such portion of the Property to be mowed, ditched, graded or cleaned by the Association, and reasonable costs shall be assessed, after written notice that such conditions exist and failure to remedy the conditions, and such costs shall be payable by such Owner. Such costs, together with interest at the maximum contract rate permitted by law from five (5) days after the date of demand for payment, shall be secured by a lien against the portion of the Property owned by such Owner, as described in Article VI. No fires for the burning of trash, leaves, clippings, or other debris or refuse shall be permitted on any part of the Property.

7.25 Clothes Hanging; Antennas. Any clothes hanging devices must be approved by the ACC, which shall have the ability to determine the placement of same. No exterior radio, television or other electronic antennas and aerials shall be allowed, unless installed so as to be completely concealed from public view, such as in attics, and no such devices shall be allowed in the event the same cause interference to the reception of other residents of the Property.

7.26 Window Treatment. No aluminum foil, reflective film or similar treatment shall be placed on windows, glass doors or window treatments visible from the exterior of any Dwelling.

7.27 Signs. No signs shall be displayed within the Property with the exception of a maximum of one "For Sale," "For Rent" and/or "Open for Inspection" sign Upon each Lot, not exceeding 6" x 8" in area, fastened only to a stake in the ground and extending not more than three feet (3') above the surface of the ground. No portion of such sign may be erected closer than twelve feet (12') to any adjoining property line. Signs may be illuminated by reflection from a light source only (rotating, blinking, flashing, and other lights on the sign are prohibited), and such light source shall not in any way reflect light into any adjoining portion of the Property or street rights-of-way. None of the preceding prohibitions against signage shall prevent the erection of street signs and traffic signs within the Property by the City of Venice.

7. 28 Obstructions; Fences. Following completion of construction of any Dwelling, no wall shall be constructed serving such Dwelling, except for replacement walls. In order to preserve the Uniform appearance and aesthetics of the community, fences are prohibited, except as hereinafter provided. All fences shall be subject to the Architectural Control Committee's approval as to all aspects of design and location, and subject to compliance with all applicable governmental requirements. No fences shall be permitted on the boundary of any portion of a golf course or any Pond (as described in Section 7.29 below). The exterior side of any fence permitted must be maintained in a clean, attractive manner and may not be constructed or decorated in such a manner as to create a bizarre or aesthetically

controversial or annoying effect. So called "spite fences" are specifically prohibited. With the approval of the Committee, temporary fences may, or if required by the Committee shall, be erected as development boundaries.

7.29 Intentionally Deleted.

7.30 Wells; Septic Tanks; Oil and Mining Operations. No water wells or septic tanks may be drilled or maintained on any portion of the Property without the prior written approval of the Architectural Control Committee, which approval may be subject to any conditions deemed necessary or desirable by the Committee. Any approved wells or septic tanks shall be constructed, maintained, operated and Utilized in strict accordance with any and all applicable statutes and governmental rules and regulations pertaining thereto. No oil drilling, oil development operations, oil refining, fill dirt, quarrying or mining operations of any kind shall be permitted within the Property, nor shall any oil wells, tanks, tunnels, derricks, boring apparatus, mineral excavations or shafts be permitted upon or in the Property.

7.31 Electrical Interference. No electrical machinery, devices or apparatus of any sort shall be Used or maintained on any portion of the Property which causes interference with the television or radio reception of any other resident of the Property. This provision shall not prevent the use during normal business hours of any equipment required in construction of any improvement Upon the Property. No exterior radio, television or other electronic antennas or aerials shall be allowed, unless constructed so as to be completely concealed from public view, such as in attics.

7.32 Solar Devices. No solar device of any nature shall be permitted unless the Owner has obtained the prior written approval of the Architectural Control Committee as to same, approval of which shall not be unreasonably withheld or contrary to applicable Florida.

7. 33 Dwelling Plates. A plate showing the number of the Dwelling shall be placed on each Dwelling. However, the size, location, design, style and type of material for each such plate shall be first approved by the Association.

7.34 Relationship with Master Declaration; Right of Association to Grant Waivers or Variances. All of the provisions of this instrument are in addition to and not in limitation of the terms of the Master Declaration. Where the terms hereof are more restrictive than but consistent with the Master Declaration, all provisions shall be binding, but in the event of impossibility of compliance with both documents, the terms of the Master Declaration shall control. The absolute right and discretion is hereby reserved to the Association to grant waivers of or variances from the obligations of these restrictions in cases where not to grant such variances or waivers would create hardship, in the opinion of the Association, or where the improvements allowed by such variances or waivers would be in keeping with the spirit and intent of this instrument or compatible with the character and nature of the Property, or would not substantially adversely affect any neighboring Owners or the Property as a whole. Such variances or waivers, if granted, shall be granted upon written application of the Owner setting forth in detail the variance or waiver desired and reasons for it. Any such variance or waiver, if granted, shall be evidenced by a written instrument executed by the Association with the formalities of a deed and may be recorded in the Public Records of Sarasota County, Florida, at the expense of the Owner obtaining the variance or waiver.

7.35 Rules and Regulations. Reasonable rules and regulations concerning the appearance and use of the Lots, Dwellings and Common Area and consistent with the terms of this Declaration may be made and amended from time to time by the Board of Directors and the Association. If a rule or regulation promulgated by the Association shall conflict with a rule or regulation promulgated by the Board of Directors, the Board of Directors' rule or regulation shall be null and void but only to the extent in conflict with the Association's rule or regulation. Copies of such rules and regulations shall be made available to all owners upon request. All Owners, their families, invitees and lessees shall Use the common Area only in accordance with such rules and regulations.

7. 36 Intentionally Deleted.

Intentionally Deleted

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8 .1 Intentionally Deleted.

(a) Intentionally Deleted.

(b) Intentionally Deleted.

(c) Intentionally Deleted.

(d) Intentionally Deleted.

(e) Intentionally Deleted.

(f) Intentionally Deleted.

8.2 Intentionally Deleted.

ARTICLE IX

MISCELLANEOUS

9.1 Term and Amendment. This Declaration shall become effective upon its recordation in the Public Records of Sarasota County, Florida, and the restrictions herein shall run with the land, regardless of whether or not they are specifically mentioned in any deeds or conveyances of Lots within the Property subsequently executed, and shall be binding on all parties and all persons claiming under such deeds, for a period of thirty (30) years from the date this Declaration is recorded, after which time the term of this Declaration shall automatically extend for successive periods of ten (10) years each, unless terminated by the vote of sixty-six percent (66%) of the voting interests of members present, in person or by proxy, at a meeting called for such purpose. This Declaration may be amended during the first thirty (30) year period or any subsequent ten (10) year period by an instrument signed either by: the (i) Owners holding not less than sixty-six percent (66%) of the total votes; or (ii) by the duly authorized officers of the Association provided such amendment by the Association's officers has been approved by at least sixty-six percent (66%) of the total votes cast in person or by proxy at a regular or special members meeting.

9.2 Enforcement. If any person, firm or corporation, or their respective heirs, personal representatives, successors or assigns shall violate or attempt to violate any of the restrictions set forth in this Declaration, it shall be the right of the Association or any Owner of a Lot within the Property to bring

any proceedings at law or in equity against the person or persons violating or attempting to violate such restrictions, whether such proceedings aim to prevent such persons from so doing, or to recover damages, or to foreclose against the land any lien created hereunder, or otherwise, and if such person is found in the proceedings to be in violation of or attempting to violate the restrictions set forth in this Declaration, he shall bear all expenses of the litigation, including court costs and reasonable attorney's fees (including those on appeal) incurred by the party enforcing the restrictions set forth herein. Failure of the Association or any other person or entity to enforce any provision of this Declaration upon breach, however long continued, shall in no event be deemed a waiver of the right to do so thereafter with respect to such breach or as to any similar breach occurring prior or subsequent thereto. Issuance of a building permit or license which may be in conflict with the restrictions set forth herein shall not prevent the Association or any of the Owners from enforcing the restrictions set forth herein. Further, to cure the default of any Owner who fails to comply with the provisions hereof, and all costs reasonably incurred in connection therewith, together with interest at the highest contract rate permitted by law from five (5) days after the date of demand, shall be due and payable from the defaulting Owner on demand, and shall be secured by a lien in favor of the Association on the defaulting Owner's Lot as described in Article VI. Without limiting and in addition to the foregoing remedy, in the event the provisions of Section 7.18 regarding the construction deadline are violated, the Owner of the Lot as to which the violation occurs shall be liable for liquidated damages payable to the Developer in the amount of One Hundred Dollars (\$100.00) per day for each day beyond the deadline in Section 7.18 that construction is not completed. The right to such damages shall be secured by a lien as described in Article VI. If such a lien is filed but is subsequently removed or extinguished by foreclosure of a superior mortgage or other lien, the mortgagee or other person taking title by foreclosure shall again be subject to the deadline for construction set forth in section 7.18, but the time period shall run from the date that title is acquired so that the mortgagee or other person taking title by foreclosure shall have another nine (9) months to complete construction. Liquidated damages shall again begin to accrue and shall be secured by a lien in favor of the Developer if the extended construction deadline is not met.

9.3 Notice. Any notice required to be sent to any Owner under the provisions of this instrument shall be deemed to have been properly sent when personally delivered, emailed, or mailed, postpaid, to the last known address or email address of record of said Owner.

9.4 Severability. Invalidation of any term or provision of this Declaration by judgment or court order shall not affect any of the other provisions hereof which shall remain in full force and effect.

9.5 Interpretation. Unless the context otherwise requires, the use herein of the singular shall include the plural and vice versa; the Use of one gender shall include all genders; the use of the terms "include" or "including" shall mean "include without limitation" or "including without limitation," as the case may be; and any reference to "attorney's fees" shall mean "reasonable attorney's fees incurred before, during and after litigation, including appellate proceedings, and including fees of legal assistants." The headings Used herein are for convenience only and shall not be Used as a means of interpreting or construing the substantive provisions hereof.

9.6 Approvals. Wherever herein the consent or approval of the Association or the Board of Directors is required to be obtained, no action requiring such consent or approval shall be commenced or undertaken until after a request in writing seeking the same has been submitted to and approved in writing by the party from whom such consent or approval is required. In the event such party fails to act

on any such written request within thirty (30) days after the same has been received, the consent or approval to the particular action sought in such written request shall be conclusively and irrefutably presumed, except that no action shall be taken by or on behalf of the person or persons submitting such written request which violates any of the covenants herein contained other than the covenant to obtain the approval specifically requested as set forth above.

9.7 Intentionally Deleted.

9.8 Occupants Bound. All provisions of this Declaration governing the usage of a Lot or the conduct of an Owner shall also apply to all occupants of the Lot and all family members, guests, and invitees of the Owner. Each Owner shall cause all such occupants, family members, guests and invitees to comply with such provisions and shall be jointly and severally responsible with such occupants, family members, guests, and invitees for any violation by them of such provisions. The lease of any Lot shall be deemed to include a covenant on the part of the tenant to comply with and be fully bound by such provisions.

9.9 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a majority vote of the Owners. This Section shall not apply, however, to (a) actions brought by the Association against parties other than the Developer to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of Assessments, liens, or fines as provided herein, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it.

9.10 Additional Covenants. No Owner may impose any additional covenants or restrictions on any part of the Property.

EXHIBIT "A"

Berkshire Place Phase Two as recorded in Plat Book 37, Pages 1-1A, of the Public Records of Sarasota County, Florida.