

**SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR BAYTREE GOLF & COUNTRY CLUB**

STATEMENT OF BACKGROUND INFORMATION

- A. Terms used in this Declaration are defined in Article In hereof.
- B. Declarant was the developer of a project known as Baytree Golf & Country Club. Scratch Golf Company, a South Carolina general partnership, was the developer of the Golf Course. Baytree Community Development District is the developer of Baytree roadways, parks, lake conservation, and landscape areas.
- C. Baytree Golf & Country Club has been developed as a residential planned unit development.
- D. The Declarant formed Baytree Community Association, Inc. ("BCA") to fulfill certain functions as set forth in this Declaration.
- E. The Declarant turned over control to the BCA prior to the recording hereof.
- F. The Declarant recorded the Declaration of Covenants, Conditions and Restrictions for Baytree Golf & Country Club in Official Records Book 3324, Page 2673, *et.seq.*, on 09/20/93 in the Public Records of Brevard County, Florida ("Original Declaration").
- G. The Amendment to Declaration of Covenants, Conditions, and Restrictions for Baytree Golf & Country Club, relating to Article XIII, Section 13.6 of the Declaration, was recorded in Official Records Book 4494, at Page 0608, *et. seq.*, on 12/17/01 in the Public Records of Brevard County, Florida.
- H. The Original Declaration was amended, restated and completely replaced by the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Baytree Golf & Country Club recorded in Official Records Book 4834, Page 1353, *et.seq.*, on 03/03/03 in the Public Records of Brevard County, Florida ("Amended and Restated Declaration").
- I. The Amended and Restated Declaration was re-recorded with notations of additions and deletions removed in Official Records Book 4889, Page 3630, *et.seq.*, on 0⁴/₂₃/03 in the Public Records of Brevard County, Florida ("Re-recorded Amended and Restated Declaration").
- J. The Amendment to Declaration of Covenants, Conditions, and Restrictions for Baytree Golf & Country Club, relating to Article XIV, Section 14.21.11 of the Declaration, was recorded in Official Records Book 5405, at Page 1884, *et. seq.*, on 01/04/05 in the Public Records of Brevard County, Florida.
- K. The Amended and Restated Declaration and Re-recorded Amended and Restated Declaration are being amended, restated and replaced in their entirety by this Second Amended and

Restated Declaration of Covenants, Conditions, and Restrictions for Baytree Golf & Country Club ("Second Amended and Restated Declaration") as of the date of recording hereof.

STATEMENT OF DECLARATION

This Declaration and the BCA will govern all phases of Baytree Golf & Country Club as recorded in Plat Book 39, Page 59-72 of the Public Records of Brevard County, Florida. The CDD was created and operates under Florida Statutes Chapter 190.

ARTICLE I

GENERAL PLAN OF DEVELOPMENT

The Properties have been developed as a phased residential project inclusive of a Golf Course with related amenities as well as lake and conservation areas.

Except as otherwise provided herein, it is the intention that the Properties will be subject to this Declaration. The residential portion of the Properties will be developed as a series of Neighborhoods, each of which may be subject either to a Supplemental Declaration or Neighborhood Documents as well as this Declaration. The BCA is responsible for the administration of this Declaration and any Supplemental Declarations.

ARTICLE II

INTENT OF DECLARATION

To provide for the preservation and enhancement of the value, desirability and attractiveness of the Properties, this Declaration imposes upon the Properties mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of private property within the Properties and to establish a method for the administration, maintenance, preservation, use and enjoyment of the Properties, and maintenance of rights-of-way.

ARTICLE III

DEFINITIONS

Section 3.1 "Architectural Review Committee" or "ARC" shall refer to that committee as established by the BCA's Board of Directors and described in Article XII hereof.

Section 3.2 "ARC Standards" shall refer to the BCA Board adopted standards and guidelines for the construction and/or modification of all lots, structures, home exteriors, permanent exterior fixtures and landscaping within the Baytree Community.

Section 3.3 "Area of Common Responsibility" shall mean and refer to the Common Area, together with those areas, if any, which by the terms of this Declaration, or by contract or agreement

with any Neighborhood Association or a governmental agency become the responsibility of the BCA.

Section 3.4 "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of BAYTREE COMMUNITY ASSOCIATION, INC., as filed with the Secretary of State of Florida, and as may be amended from time to time.

Section 3.5 "Assessment" or "Assessments" shall mean and refer to those charges, fees and/or obligations set forth in Article XI hereof

Section 3.6 "BCA" shall mean and refer to BAYTREE COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation, its successors or assigns, whose purpose is to administer the Properties, except as otherwise provided herein, in accordance with the provisions of this Declaration.

Section 3.7 "Baytree" and "Baytree Golf & Country Club" shall mean and refer to the master planned community approved by Resolution Number Z-8540 and any additional or supplemental resolutions thereto approved by the Board of County Commissioners of Brevard County.

Section 3.8 "Baytree Community Standards" or Baytree Policies and Architectural Review Committee Standards "B-PARCS" are the policies, rules and regulations as adopted by the BCA Board of Directors which include, but are not limited to, the ARC Standards, all of which may be amended from time to time with the cumulative intent to provide for the preservation and enhancement of the value, desirability and the attractiveness of the Properties. The Baytree Community Standards shall be uniformly applied to all subject property and shall be in addition to the use restrictions contained in Article XIII hereof

Section 3.9 "Benefit Assessment" shall mean and refer to Assessments levied against all Members benefitting from a special service or amenity for the cost incurred for providing such service or amenity which shall include without limitation maintenance, repair, replacement and insurance.

Section 3.10 "Board of Directors" or "BCA Board" shall be the elected body of the BCA having its normal meaning under Florida corporate law.

Section 3.11 "By-Laws" shall mean and refer to the By-Laws of Baytree Community Association, Inc. as may be amended from time to time.

Section 3.12 "Common Area" or "Common Property" shall be an inclusive term referring to all real property owned or held by the BCA, including all Exclusive Common Area, and intended to be devoted to the common use and enjoyment of the Owners of Private Property in accordance with this Declaration. The term "Common Property" shall also include any personal property acquired by the BCA if said property is designated as "Common Property" in the bill of sale or instrument transferring same or subsequently declared by the BCA to be Common Property. Any

land or personal property leased by the BCA shall lose its character as Common Property upon the expiration of such lease. As of the date of this Second Amended and Restated Declaration, the BCA owns no Common Area.

Section 3.13 "Common Assessment" shall mean and refer to Assessments levied against all Lots to fund Common Expenses.

Section 3.14 "Common Expenses" shall mean and include the actual and estimated expenses incurred by the BCA for maintenance, operation and other services required or authorized to be performed by the BCA which is attributable to the Area of Common Responsibility, including any reasonable reserves, all as may be found to be necessary or appropriate by the BCA Board pursuant to this Declaration, the By-Laws, and the Articles of Incorporation of the BCA.

Section 3.15 "Community Development District" or "CDD" shall mean and refer to the Baytree Community Development District which is a local unit of special-purpose government organized and existing under Chapter 190, Florida Statutes, and which may fund, construct, operate and maintain certain infrastructure within or outside the Properties.

Section 3.16 "Community-Wide Standards" shall mean and refer to a consistent standard of operations, maintenance, repair, and enhancement of the Common Areas and Lots throughout Baytree, with the cumulative intent to provide for the preservation and enhancement of the value, desirability, and the attractiveness of the Properties, which standards shall be uniformly applied.

Section 3.17 "Conservation Areas" shall mean certain real property identified as Conservation Areas in that certain Special Warranty Deed recorded in Official Records Book 3308, Page 4041, et. seq., Public Records of Brevard County, Florida and as so designated in any plat subject to this Declaration.

Section 3.18 "Declarant" shall mean and refer to Baytree Development Joint Venture or its successors-in-title, pursuant to an instrument which is duly recorded in the Public Records of Brevard County Florida and which conveys and assigns to the grantee thereof all or any portion of the rights of Baytree Development Joint Venture hereunder. Such conveyance and assignment may be partial in which event Baytree Development Joint Venture rights so conveyed shall be limited as provided in the instrument, or the same may be a complete conveyance and assignment, in which latter event shall vest such successor with all of the rights of Baytree Development Joint Venture hereunder at which time Baytree Development Joint Venture shall be released of all liability hereunder.

Section 3.19 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions for Baytree as the same may be amended or Supplemented from time to time.

Section 3.20 "Environmental Preservation Guidelines" shall mean and refer to those guidelines promulgated by the St. Johns River Water Management District "SJRWMD" from time to time relative to the maintenance, upkeep, monitoring and preservation of those portions of the

Properties which are or shall be under the jurisdiction and control of any governmental agency which desires or requires environmental or wildlife protection or controls.

Section 3.21 "Exclusive Common Area" shall mean and refer to certain portions of the Common Area which are for the exclusive use and benefit of one (1) or more, but less than all, of the Members of the BCA. All costs associated with maintenance, repair, replacement, and insurance of Exclusive Common Areas shall be assessed against the Owners and their Private Property which are benefited thereby as a Neighborhood or Benefit Assessment. By way of illustration, and not limitation, Exclusive Common Areas may include recreational facilities intended for the exclusive use of Owners within a particular Neighborhood or Neighborhoods and supported exclusively by Neighborhood Assessments. Initially, any Exclusive Common Areas shall be designated as such and the exclusive use thereof shall be assigned in the deed or Plat conveying or dedicating the Common Area to the BCA, as the case may be. A portion of the Common Area may be assigned as Exclusive Common Area of a particular Neighborhood or Neighborhoods, and Exclusive Common Area may be reassigned upon the vote of a majority of the votes within the Neighborhood(s) to which they are assigned and the approval thereof by the BCA. As of the date of this Second Amended and Restated Declaration, the BCA owns no Exclusive Common Area.

Section 3.22 "FHA/VA" shall mean the Federal Housing Association and the Veterans Administration.

Section 3.23 "First Mortgagee" shall mean and refer to any Institutional Lender who holds a first mortgage on a Lot, and who has notified the BCA in writing of its holdings.

Section 3.24 "Golf Course" shall mean the portions of Baytree comprising the Golf Course, and related facilities to be constructed and operated by Baytree Golf, LLC, the owner of such property, its successors and/or assigns, which facilities may include, without limitation, a Golf Course, clubhouse, driving range, putting green, all of which are separate from the Common Areas.

Section 3.25 "Institutional Lender" shall mean and refer to a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust, qualified pension, profit sharing, IRA accounts or trusts, or lender generally recognized in the community as an institutional lender.

Section 3.26 "Lot" or "Lots" shall mean and refer to a portion of the Properties, whether developed or undeveloped, intended for development, use or occupancy as a residence for a single family and shall, unless otherwise specified, include within its meaning (by way of illustration, but not limitation) single family lots, detached villas, single-family detached houses on one (1) or more separately platted lots, as well as vacant land intended for development as such, all as may be developed, used, and defined as herein provided or as provided in Supplemental Declarations covering all or part of the Properties. The term shall include all portions of the Lot owned as well as any structure thereon; provided, however, title to any Lot bounded by any street, lake or Conservation Area or any other common property shall not extend upon such common property, title to such properties being vested as herein provided. Any two (2) or more Lots which are under common ownership and on which a single residence has been constructed shall nevertheless be

considered to be two (2) or more separate Lots for purposes of voting, Assessment and all other matters hereunder. The term unimproved Lot shall mean a Lot upon which a foundation slab has not been poured.

Section 3.27 "Master Plan" shall mean and refer to the plan for the development of Baytree as most recently approved by the Board of County Commissioners of Brevard County, Florida, and all other governmental agencies having jurisdiction thereof, and as said plan may be amended from time to time.

Section 3.28 "Member" shall mean and refer to a Person entitled to membership in the BCA, as provided herein and in the By-Laws. The owner of the Golf Course, its successors and/or assigns, shall not be considered a Member unless, and only to the extent, it owns a Lot.

Section 3.29 "Neighborhood" shall mean and refer to a portion of the Properties (containing Lots and/or Common Areas and facilities which are not available for use by all Members) which has been designated as a separate Neighborhood by a Supplemental Declaration executed and recorded by the Declarant or the BCA. The Neighborhoods as of the time of recording of this Declaration are Kingswood, Windsor, The Hamlet, Saddleworth, Chatsworth, Arundel, Balmoral/Southpointe, and Turnberry. Neighborhoods may be divided or combined in accordance with Article XIV of the Declarations. Where the context permits or requires, the term Neighborhood shall also refer to the Neighborhood Committee (established in accordance with the By-Laws) or Neighborhood Association having jurisdiction over the property within the Neighborhood. It shall not be necessary for any Neighborhood to be governed by a Neighborhood Association except as required by law.

Section 3.30 "Neighborhood Assessments" shall mean Assessments levied against the Lots in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses.

Any Neighborhood Assessment shall be levied equally against all Lots in the Neighborhood(s) benefitting from the services supported thereby, provided that in the event of Assessments for exterior maintenance of structures, or insurance on structures, or replacement reserves which pertain to particular structures, such Assessments for the use and benefit of particular Lots shall be levied on a pro rata basis among the benefited Lots.

Section 3.31 "Neighborhood Association" shall mean or refer to any homeowner association which may be formed within a particular Neighborhood to govern the business affairs and any property within that Neighborhood. The formation of a Neighborhood Association is not required.

Section 3.32 "Neighborhood Committee" shall mean a group of three (3) to five (5) people elected by the Owners within a Neighborhood in accordance with the By-Laws. If there is a Neighborhood Association within a Neighborhood, the Board of Directors of that Neighborhood Association will serve as the Neighborhood Committee.

Section 3.33 "Neighborhood Documents" shall mean the Declaration of Covenants, Conditions and Restrictions and the Articles of Incorporation and By-Laws of a Neighborhood Association and any other documents governing a Neighborhood, all changes to such documents,

and any and all budgets of such Neighborhood Associations as adopted from time to time as set forth in Section 11.4 herein, and said supplemental and additional restrictions are incorporated herein by reference.

Section 3.34 "Neighborhood Expenses" shall mean and include the actual and estimated expenses incurred by the BCA for the benefit of Owners of Private Property within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements, all as may be specifically authorized from time to time by the BCA Board of Directors and as more particularly authorized herein. Neighborhood Expenses may be shared by one (1) or more benefited Neighborhoods.

Section 3.35 "Owner" shall mean and refer to the record title holder, whether one (1) or more persons or entities, of the fee simple title to any Lot situated within or upon the Properties. Owners shall not include any mortgagee unless and until such mortgagee has acquired title to a Lot pursuant to an action for foreclosure or any proceeding in lieu of foreclosure. If a Lot is sold under a recorded contract for deed, and the contract specifically so provides, then the purchaser (rather than the fee Owner) will be considered the Owner. If a Lot is subject to a written lease with a term in excess of one (1) year and the lease specifically so provides, then upon filing the required information in accordance with Article XIII section 13.17.2 with the BCA Board of Directors the lessee (rather than the fee Owner) will be considered the Owner for the purpose of exercising all privileges of membership in the BCA but the fee Owner shall remain responsible for all obligations relative to such Lot.

Section 3.36 "Person" means a natural person, a corporation, a partnership, a trustee or any other legal entity.

Section 3.37 "Plat" or "Plats" shall mean all the Plats of Baytree, Planned Unit Development recorded in the Public Records of Brevard County, Florida.

Section 3.38 "Private Property" shall mean and refer to Lots.

Section 3.39 "Property" or "Properties" shall mean and refer to the real property described on the Plat of Baytree Planned Unit Development inclusive of the Golf Course (except as otherwise provided herein) and CDD properties and together with such additional property as may be hereafter subjected to this Declaration by Supplemental Declaration(s).

Section 3.40 "Rules and Regulations" shall mean the Rules and Regulations adopted by the BCA Board as same may be amended from time to time.

Section 3.41 "SJRWMD" shall mean the St. Johns River Water Management District.

Section 3.42 "Special Assessment" shall mean and refer to Assessments levied in accordance with Article XI, Section 11.5 of this Declaration.

Section 3.43 "Supplemental Declaration" or "Supplement" shall mean an amendment or supplement to this Declaration executed by or consented to by Declarant and/or the BCA or its' successors in interest which subjects additional property to this Declaration and/or imposes, additional restrictions and obligations or removes restrictions and Lot obligations on the land described therein.

Section 3.44 "Surface Water Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40 or 40C-42, Florida Administrative Code. The Surface Water Management System consists of the Lakes and Conservation Areas described in that certain Special Warranty Deed recorded in Official Records Book 3308, Page 4041, et seq., Public Records of Brevard County, Florida.

Section 3.45 "Voting Member" shall mean the one (1) Voting Member elected by each Neighborhood. Said Voting Member shall cast the votes of the Neighborhood in the election of the BCA Board of Directors as provided in Article III of the By-Laws. The owner of the Golf Course shall be entitled to one (1) Voting Member.

ARTICLE IV

PROPERTY RIGHTS AND PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS THERETO

Section 4.1 Property. The following Neighborhoods are subject to this Declaration.

- 4.1.1 Kingswood
- 4.1.2 Windsor
- 4.1.3 The Hamlet
- 4.1.4 Saddleworth
- 4.1.5 Chatsworth
- 4.1.6 Arundel
- 4.1.7 Balmoral/Southpointe
- 4.1.8 Turnberry

Section 4.2 Enjoyment of Common Areas. Every Owner of a Lot shall have a right and easement of enjoyment in and to the Common Area, subject to this Declaration as it may be amended from time to time, Rules and Regulations, payment of use or access fees or other charges reasonably imposed by the BCA, and subject to any restrictions or limitations contained in any deed conveying such property to the BCA. Any Owner of a Lot may delegate his or her right of enjoyment to the members of his or her family, lessees and social invitees, as applicable, subject to this Declaration, reasonable regulation by the BCA Board of Directors and in accordance with Rules and Regulations adopted from time to time. An Owner who leases his or her Lot shall be deemed to have delegated all such rights to the lessee of the Lot.

ARTICLE V

MEMBERSHIP AND VOTING RIGHTS

Section 5.1 Membership. Every Owner of a Lot shall be deemed to have membership in the BCA, as provided in Section 5 below.

No Owner of a Lot, whether one (1) or more Persons, shall have more than one (1) membership per Lot. In the event the Owner of a Lot is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership may be exercised by a Member or the Member's spouse, subject to the provision of this Declaration and the By-Laws. In the event a Member is a corporation, partnership, trust or other entity or joint form of ownership, membership rights and privileges may only be exercised by the individuals listed on a certificate filed with the Secretary of the BCA. Membership shall be appurtenant to and may not be separated from ownership of Private Property except as otherwise provided herein. Change of membership in the BCA shall be established by recording in the Public Records of Brevard County, Florida, a deed or other instrument conveying record fee title to Private Property and by the delivery to the BCA of a copy of such recorded instrument. The Owner designated by such instrument shall, by said Owner's acceptance of such instrument, become a Member of the BCA, and the membership of the prior Owner shall be terminated. In the event a copy of said instrument is not delivered to the BCA, said Owner(s) shall become a Member, but shall not be entitled to voting privileges enjoyed by his predecessor in interest until such delivery is accomplished, but such Owner(s) shall nevertheless be responsible for all obligations required of an Owner hereunder. The foregoing shall likewise not limit the BCA's powers or privileges to enforce covenants, Assessments and abate violations.

Section 5.2 Voting. Members shall be all Owners of Lots and shall be entitled to one (1) equal vote for each Lot in which they hold the interest required for membership.

Section 5.3 Mediation. The BCA shall comply with the Florida Statutes regarding mandatory mediation or other dispute resolution procedures required for homeowner's associations as required.

ARTICLE VI

MAINTENANCE

Section 6.1 Maintenance by the BCA. The BCA shall maintain and keep in good repair the Area of Common Responsibility, such maintenance to be funded as hereinafter provided. At the time of the recording of this Second Amended and Restated Declaration, the BCA owns no Common Property. This section shall apply to any Common Area, Common Property or Area of Common Responsibility acquired by the BCA.

The maintenance to be performed by the BCA shall include, but need not be limited to, maintenance, repair, and replacement, subject to any insurance then in effect, of all

landscaping and other flora, (which shall be governed by the requirements and regulations for landscaping as set forth in the Baytree Community Standards (B-PARCS) as promulgated by the BCA's Board of Directors and as same may be amended from time to time) structures, and improvements, including all private streets, sidewalks, buildings and other improvements owned by the BCA, situated upon the Common Area, and such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, or by a contract or agreement with the BCA. Such maintenance may also include insect, pest, and aquatic control to the extent necessary or desirable, in the judgment of the BCA. Such pest or aquatic weed control may also be provided by the CDD. The BCA for the benefit of itself and the CDD reserves a perpetual right and easement on and over and under all Properties to dispense pesticides and to take other action, which in the opinion of the BCA or CDD is necessary to control insects and vermin on the Properties exclusive of the interior of buildings and other structures constructed on the properties. The providing of pest services as described above shall not be construed as an obligation on the part of the BCA to provide such services.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of Areas of Common Responsibility shall be a Common Expense to be allocated among all Lots as part of the Common Assessment. All costs associated with maintenance, repair and replacement of Exclusive Common Areas shall be a Neighborhood Expense assessed as a Neighborhood Assessment solely against the Lots within the Neighborhood(s) to which the Exclusive Common Areas are assigned, notwithstanding that the BCA may be responsible for performing such maintenance hereunder.

The BCA may assume responsibility for exterior grounds maintenance within any Neighborhood and maintenance, repair and replacement of other property within any Neighborhood to the extent designated in any Supplemental Declaration affecting the Neighborhood. The BCA may also assume maintenance responsibilities with respect to any Neighborhood in addition to those designated by Supplemental Declaration. This assumption of responsibility may take place either by agreement with the Neighborhood Association or because, in the opinion of the BCA's Board of Directors, the level and quality of service then being provided is not consistent with the B-PARCS of the Properties. (All costs of maintenance pursuant to this paragraph shall be assessed as a Neighborhood or Benefit Assessment only against the Lots within the Neighborhood to which the services are provided. The providing of services in accordance with this Section shall not constitute discrimination within a class.) For the purpose of performing the exterior maintenance authorized by this Article, the BCA, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Lot Owner, to enter upon any Lot or exterior of any Lot or other structures or improvements, at reasonable hours of any day.

The BCA may maintain other property which it does not own, including, without limitation, property dedicated to the public, property dedicated to or owned by the CDD, if the BCA's Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard. The costs of such maintenance shall be allocated among the benefited properties as a Common Assessment, Neighborhood Assessment or Special Assessment, as the Board of Directors determines reasonable and appropriate.

Any walls and fences surrounding portions of the Properties shall be maintained by the BCA, if such property is within the Area of Common Responsibility, and a perpetual easement of ingress and egress over the walls and fences, and Private Property is hereby granted to the BCA for purposes of construction and maintenance activities related to any such walls and fences.

The BCA may contract with any Person for the management of all or part of the Properties for purposes of carrying out all or a portion of the maintenance services provided for in the Declaration.

In the event the BCA shall fail to carry out any of its maintenance activities hereunder, then any aggrieved Owner(s) may seek to enforce the provisions of this Declaration subject to the terms and provisions hereof.

Section 6.2 Maintenance by CDD. The CDD shall maintain and keep in good repair all properties which are owned by, dedicated to or controlled by the CDD, such maintenance shall be funded by taxes, Assessments or fees and charges to be levied by the CDD. Portions of the property owned or controlled by the CDD may be maintained by the BCA through a separate agreement between the CDD and the BCA. All such maintenance performed by the BCA shall be subject to compliance with the Community Wide Standards.

Section 6.3 Owner's Responsibility. Each Owner shall maintain his or her Private Property and all structures, parking areas and other improvements thereon. In the event a Lot is going to be unoccupied for a consecutive period of one (1) month or longer, the Owner must designate a responsible firm or individual to undertake his or her general maintenance responsibilities, which responsibilities shall include, at a minimum, maintaining exterior appearance, safeguarding the property to prepare for hurricane or tropical storm watches and warnings by, among other things, removing any unfixed items on patios, balconies and lanais and storing same indoors and repairing the property in the event of any damage therefrom. Owners of Private Property shall maintain property between the Private Property boundary and water's edge or wetland. Owners of Private Property which is adjacent to any portion of the Property on which walls or fences have been constructed shall maintain and irrigate that portion of the area which lies between the wall or fence and the Private Property boundary. Owners of Private Property fronting on any roadway within the Properties shall maintain driveways serving their respective Private Property and shall maintain and irrigate landscaping (which shall be governed by the requirements and regulations for landscaping as set forth in the B-PARCS as promulgated by the BCA's Board of Directors and as same may be amended from time to time) on that portion of the area, if any, or right-of-way in between the Private Property boundary and the nearest pavement edge. Owners of Private Property fronting on the water's edge or upon greenbelt buffer fronting the water's edge of any lake or other body of water within the Properties shall maintain and irrigate all landscaping (which shall be governed by the requirements and regulations for landscaping as set forth in the B-PARCS Standards as promulgated by the BCA Board of Directors and as same may be amended from time to time) between the Private Property boundary and such water's edge; provided, the Owners shall have no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article XII hereof.

All maintenance required by this Section 6.3 shall be performed in a manner consistent with the B-PARCS Standards and all applicable covenants. If any Owner fails properly to perform his or her maintenance responsibility, the BCA may maintain such property and assess all costs incurred by the BCA against the Lot and the Owner thereof as a Special or Benefit Assessment; provided, however, except when entry is required due to an emergency situation, the BCA shall afford the Owner a minimum of seven (7) days' notice and an opportunity to cure the problem prior to entry.

Section 6.4 Neighborhood Association's Responsibility. Any Neighborhood Association having responsibility for maintenance of all or a portion of the property within a particular Neighborhood pursuant to Neighborhood Documents shall perform such maintenance responsibility in a manner consistent with the B-PARCS. In the event that Neighborhood Association fails to adequately maintain property for which it is responsible, the BCA shall have the right, but not the obligation, to maintain such property and to assess the costs (including an appropriate charge for administrative overhead) against the Lots located within the maintenance responsibility of the Neighborhood benefited by the maintenance performed by the BCA. Each such Lot shall pay its pro-rata share of such expenses incurred by the BCA together with an administrative charge of ten percent (10%) of such amount. Such Assessments may be collected as Special or Benefit Assessments hereunder and shall be subject to all lien rights provided herein.

Any Neighborhood Association whose common property is adjacent to any portion of the Property upon which a wall or fence is constructed shall maintain and irrigate that portion of the Common Area between the wall or fence and the Neighborhood Association's property line. Any Neighborhood Association whose common property fronts on any roadway within the Properties shall maintain and irrigate the landscaping (which shall be governed by the requirements and regulations for landscaping as set forth in the B-PARCS as promulgated by the BCA's Board of Directors and as same may be amended from time to time) on that portion of the right-of-way between the property line and the nearest curb of such roadway.

Any Neighborhood Association whose common property fronts the water's edge, or greenbelt buffer front in the water's edge, of any lake or other body of water within the Properties shall maintain and irrigate all landscaping (which shall be governed by the requirements and regulations for landscaping as set forth in the B-PARCS Standards as same may be amended from time to time) between its property line and such water's edge, provided, there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article XV hereof.

Section 6.5 Surface Water Drainage and Management System.

6.5.1 All Owners acknowledge that the Property is located within the boundaries of the SJRWMD.

6.5.2 Only vegetation approved by the Architectural Review Committee shall be installed and maintained on any area adjacent to the Surface Water Management System. A list of

native and other permitted vegetation is included as part of the ARC Standards promulgated by the Architectural Review Committee.

6.5.3 The CDD shall be responsible for the maintenance, operation and repair of the Surface Water Management System. Maintenance of the Surface Water Management System shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or storm water management capabilities as permitted by the SJRWMD. The CDD shall be responsible for such maintenance and operation. Any repair or reconstruction of the surface water or storm water management system shall be as permitted, or if modified as approved by the SJRWMD.

6.5.4 The BCA, the CDD and SJRWMD shall have equal and independent rights to enforce any and all of the covenants and restrictions set forth in this Declaration which apply to or are designed to protect the Surface Water Management System. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any Person or Persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages against the Person(s) which violate any of the provisions of this Declaration. Damages against an Owner or any Person using the Owner's property will be considered a Benefit Assessment against the Owner's Private Property. Failure by, the CDD or SJRWMD or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter nor shall such failure to so enforce create any liability on the part of the BCA, the CDD or SJRWMD. In any act or proceeding under this Section, the BCA, the CDD or SJRWMD, if the prevailing party, shall be entitled to recover costs and reasonable attorneys' fees, including attorneys' fees and costs on appeal.

6.5.5 It is the responsibility of the CDD to operate and maintain the Surface Water Management System, including, but not limited to, aquatic weed control, in a manner consistent with the original design thereof, and in accordance with the requirements of all applicable governmental authorities. Portions of the Properties and portions of the Golf Course may provide drainage for the Surface Water Management System. Notwithstanding anything to the contrary, such portions of the Properties and such portions of the Golf Course are burdened with an easement for drainage purposes, and the Owner of any such portion of the Property or any such portions of the Golf Course shall not alter the flow of drainage over such property without the consent of the CDD, the BCA, SJRWMD and where there is an impact on the drainage of the Golf Course, the owner of the Golf Course.

6.5.6 Portions of the Surface Water Management System are located within the boundaries of the Golf Course or adjacent thereto. Said areas of the Surface Water Management System are hereby burdened by perpetual, non-exclusive, transferable, appendant, and appurtenant easements on, over, under, across, and/or through those water management areas for commercial purposes to locate, construct, allow for, clear, operate, use, maintain, repair, and/or replace utilities, drainage systems, sewer systems, water systems, irrigation systems, golf course access, golf course maintenance, cart paths, bridges, sight and line of flight, golf ball retrieval, signage, parking, ingress and egress, and any and all other purposes of any nature whatsoever as may be reasonably necessary for use of the Golf Course property as a golf course with associated improvements, including, but

not necessarily limited to, a clubhouse, driving range and maintenance shed. The easements reserved herein are of a commercial nature and shall be freely transferrable with the ownership of the Golf Course. The easements are to be utilized by the owner of the Golf Course, its successors and/or assigns, employees, guests, invitees, and others acting by or with its permission, and by the club located on the Golf Course, its successors, assigns, members, employees, guests, invitees, and others acting by or with its permission. All such easements are to be located at locations to be mutually agreed upon between the CDD, its successors and/or assigns, and the owner of the Golf Course, its successors and/or assigns, with each party acting within the bounds of good faith and fair dealing. If the CDD and the owner of the Golf Course cannot mutually agree upon the location of the easement(s), then the parties agree to submit the issue to arbitration. In the event either party calls for arbitration, the CDD shall, within ten (10) days of notice of an arbitration request, request from the American Arbitration Association ("AAA") a list of AAA approved arbitrators qualified in issues of this nature. Each party to the arbitration proceeding shall select one (1) arbitrator within five (5) days after receipt of the list of arbitrators. The two (2) appointed arbitrators shall select a third AAA qualified arbitrator who together will comprise the arbitration panel. The arbitration panel shall investigate the facts and shall hold hearings at which the parties may present evidence and arguments, be represented by counsel, and conduct cross examination. The arbitrators shall render a written decision upon the issue presented to them within thirty (30) days after the date the matter was submitted to arbitration. Judgment upon the decision rendered in such arbitration may be entered by any court having jurisdiction thereof. The arbitration proceeding shall be governed by the rules of the AAA then in force. The parties shall share equally any cost of the arbitration, including arbitrator's fees and reporter's fees

The owner of the Golf Course, its successors and/or assigns, shall be responsible for the repair of any damage caused by entrance upon the water management areas for the location, construction, operation, use, repair and/or replacement of any and all such easements and for the performance of any and all work in connection with the easements in strict compliance with any and all applicable governmental regulations. Entrance to and from, and work on, the water management areas shall be done in such a manner as to minimize the interference with the use and aesthetics of said areas. General maintenance of all easements granted herein shall be the responsibility of the CDD, its successors and/or assigns, unless the easement specifically serves only the Golf Course and does not also serve the water management areas, in which case the owner of the Golf Course, its successors and/or assigns, shall be responsible for the general maintenance of any such easement(s). If the CDD, its successors and/or assigns, fails to maintain an easement it is responsible to maintain, the owner of the Golf Course, its successors and/or assigns, shall have the right, but not the obligation, to maintain such easement(s).

6.5.7 The CDD, the BCA, the owner of the Golf Course, and their designees shall have a non-exclusive easement over, upon and for use of the Surface Water Management System, and an easement for ingress, egress and access to enter upon any portion of the Property and/or the Golf Course in order to construct, maintain or repair, as necessary, any portion of the Surface Water Management System.

6.5.8 Any amendment of this Declaration which would affect the Surface Water Management System must be approved by SJRWMD.

Section 6.6 Conservation Areas.

6.6.1 Conservation Areas are reserved for the purpose of retaining and maintaining said areas in their predominantly natural condition as a wooded water recharge, detention and percolation and environmental Conservation Area. In furtherance thereof, and notwithstanding any other provision of this Declaration, the following uses of the Conservation Areas are hereby prohibited and restricted without the prior written consent of the SJRWMD, to wit:

6.6.1.1 Construction or placement of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground of the Conservation Areas; and

6.6.1.2 The dumping or placing of soil or other substances or materials as land fill or the dumping or placing of trash, waste or unsightly or offensive materials; and

6.6.1.3 The removal of trees, shrubs or other vegetation from the Conservation Areas or the destruction of same; and

6.6.1.4 The excavation, dredging or removal of loam, peat, gravel, rock, soil, or other material substance in such a manner as to affect the surface of the Conservation Areas; and

6.6.1.5 Any use which would be detrimental to the retention of the Conservation Areas in their natural condition; and

6.6.1.6 Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation or fish and wildlife habitat preservation; and

6.6.1.7 Acts or uses detrimental to such retention of land or water areas.

6.6.2 The restrictions imposed herein on the Conservation Areas are appurtenances and covenants running with the land and shall be perpetual. The prohibitions and restrictions imposed on the Conservation Areas as herein set forth may be enforced by the SJRWMD by proceedings at law or in equity including, without limitation, actions for injunctive relief. Further, the provisions of this Section 6.6 shall not be amended without the prior written approval by SJRWMD.

Section 6.7 Maintenance by Golf Course Owner. The Golf Course owner shall maintain and keep in good repair all properties owned by it; provided however, no party hereto (directly or by joinder) shall have any right to direct the owner of the Golf Course, its successors and/or assigns, in any respect with regard to said maintenance and/or repair.

ARTICLE VII

INSURANCE AND CASUALTY LOSSES

Section 7.1 Insurance. The amounts and types of insurance covering items, property or events which the BCA must maintain as described in this Section shall only be required to the extent that the CDD or another entity is not currently maintaining such amounts and types of insurance with respect to such items, property or events. The BCA's Board of Directors or its duly authorized agent shall have the authority to and shall obtain blanket all-risk coverage insurance for all insurable improvements on the Common Area, if any, or if blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy covering loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from such hazard.

The BCA shall not have any insurance responsibility for any Lot, common area of a Neighborhood Association other than the Common Area located within those properties, if any.

The BCA Board shall also obtain a public liability policy covering the Common Area, the BCA, and its Members for all damage or injury caused by the negligence of the BCA or any of its Members or agents, and, if reasonably available, Directors' and officers', liability insurance. The public liability policy shall have at least One Million Dollars (\$1,000,000.00) per person limit, as respects bodily injury, a One Million Dollar (\$1,000,000.00) limit per occurrence, and the property damage limit shall be not less than Twenty-Five Thousand Dollars (\$25,000.00).

Premiums for all insurance on the Common Area (other than Exclusive Common Area) shall be Common Expenses of the CDD and shall be included in the Common Assessment; premiums for insurance on Exclusive Common Area shall be charged to those Neighborhoods as a Neighborhood Assessment. The policy may contain a reasonable deductible, and in the case of casualty insurance, the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

All insurance coverage obtained by the BCA Board of Directors shall be written in the name of the BCA as trustee for the respective benefited parties, as further identified below. Such insurance shall be governed by the provisions hereinafter set forth.

7.1.1 All policies shall be written with a company authorized to do business in Florida which holds a rating of A or better and is assigned a financial size category of XI or larger as established by A.M. Best Company, Inc., if reasonably available, or if not available, the most nearly equivalent rating.

7.1.2 All policies on the Common Area shall be for the benefit of the BCA and its Members.

7.1.3 Exclusive authority to adjust losses under policies obtained by the BCA on the Properties shall be vested in the BCA's Board of Directors. No First Mortgagee or other lienholder shall have any right of participation with respect to losses pertaining to the Common Area.

7.1.4 In no event shall the insurance coverage obtained and maintained by the BCA's Board of Directors hereunder be brought into contribution with insurance purchased by Neighborhood Associations, individual Owners, occupants, or their First Mortgagees and the insurance carried by the BCA shall be primary.

7.1.5 All Casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one (1) or more qualified persons, at least one (1) of whom must be in the real estate industry and familiar with construction in the East Central Florida area.

7.1.6 The BCA's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

7.1.6.1 a waiver of subrogation by the insurer as to any claims against the BCA's Board of Directors, the Owners, and their respective tenants, servants, agents, and guests;

7.1.6.2 a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

7.1.6.3 a statement that no policy may be canceled, invalidated, suspended, or subject to non-renewal on account of any one (1) or more individual Owners;

7.1.6.4 a statement that no policy may be canceled, invalidated, suspended, or subject to non-renewal on account of the conduct of any Director, officer, or employee of the BCA or its duly authorized manager without prior demand in writing delivered to the BCA to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the BCA, its manager, any Owner, or First Mortgagee;.

7.1.6.5 that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

7.1.6.6 that the BCA will be given at least thirty (30) days prior written notice of any cancellation, substantial modification, or non-renewal.

In addition to the other insurance required by this Section, the BCA Board shall obtain, as a Common Expense, worker's compensation insurance if and to the extent required by law, a fidelity bond or bonds on Directors, officers, employees, and other Persons handling or responsible for the BCA's funds, and flood insurance on Common Areas, if required. The amount of fidelity coverage shall be determined in the Directors' best business judgment but, if reasonably available, may not be less than three (3) months Assessments on all Lots plus reserves on hand. Bonds shall contain

a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days prior written notice to the BCA of any cancellation, substantial modification, or non-renewal.

Section 7.2 Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the BCA that each Owner shall carry blanket all-risk casualty insurance on the Lot(s) and structures constructed thereon, unless the Neighborhood Association in which the Lot is located carries such insurance (which they are not obligated to do hereunder). Each Owner of a Lot further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of structures comprising his Lot, the Owner shall remove all debris within sixty (60) days and complete repair or reconstruction of the damaged structure within one (1) year in a manner consistent with the original construction or such other plan and specifications as are approved in accordance with Article XII of this Declaration. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. In the event that the structure is totally destroyed, the Owner of the Lot may decide not to rebuild or not to reconstruct, in which case the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction, and thereafter the Owner shall continue to maintain the Lot in a neat and attractive condition consistent with the Community-Wide Standard as it is provided in Article VII hereof. The Owners of Property shall repair any damage to such property promptly or if an improvement on such property is totally destroyed, the Owner may either reconstruct the improvement or restore such property to its normal state. Any such repair or reconstruction shall be substantially in accordance with the original plans and specifications (allowing for building or fire code changes and technical or functional improvements) or as otherwise approved by the ARC.

A Neighborhood Association may have more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Lots within the Neighborhood Association and the standard for returning the Lots to their natural state in the event the structures are not rebuilt or reconstructed.

Section 7.3 Damage and Destruction.

7.3.1 Immediately after damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the BCA, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the affected portion of the Properties to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes or other governmental requirements.

7.3.2 Any damage or destruction to the Common Area, or the Exclusive Common Areas, of any Neighborhood, or the common property of any Neighborhood Association shall be repaired or reconstructed unless (a) if Common Area, the Members representing at least seventy-five percent (75%) of the votes attributable to Lots, or (b) if Exclusive Common Area or the common

property of any Neighborhood Association, the Lot Owners representing at least seventy-five percent (75%) of the total votes of Lots within the Neighborhood whose Exclusive Common Property or Neighborhood Association common property is damaged, shall decide within sixty (60) days after the casualty not to repair or reconstruct. The foregoing may be made more stringent by the applicable Neighborhood Documents. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the BCA within said period, then the period shall be extended until such funds or information shall be made available; provided however, such extension shall not exceed sixty (60) additional days. No holder of any lien relative to the Properties or any Lot therein shall have the right to participate in the determination of whether the damage or destruction to Common Area or Exclusive Common Area shall be repaired or constructed.

7.3.3 In the event that it should be determined in the manner described above that the Common Area, Exclusive Common Area or Neighborhood Association Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the affected portion of the Properties shall be restored to their natural state and maintained undeveloped by BCA, or the Neighborhood Association, as applicable, in a neat and attractive condition consistent with the Community Wide Standards.

Section 7.4 Disbursement of Proceeds.

7.4.1 Proceeds of insurance policies written in the name of the BCA shall be disbursed as follows: If the damage or destruction for which the proceeds of insurance policies are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction or in the event no repair or reconstruction is made after making such settlement as is necessary and appropriate with the affected Owner or Owners and their mortgagee(s), as their interest may appear, if any Lot is involved, shall be retained by and for the benefit of the BCA and placed in a capital improvements account. This is a covenant for the benefit of any First Mortgagee of a Lot and may be enforced by such First Mortgagee.

7.4.2 If it is determined, as provided in Section 7.3 of this Article, that the damage or destruction to the Common Area for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner as provided for excess proceeds described above.

Section 7.5 Repair and Reconstruction. If the damage or destruction to the Common Area for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the BCA Board of Directors shall levy a Special Assessment against all Owners on the same basis as provided for Common Assessments; provided, if the damage or destruction involves the Exclusive Common Area appurtenant to a specific Neighborhood, only the Owners of Lots in the affected Neighborhood shall be subject to Assessment therefore. Additional Assessments may be made in like manner at any time during or following the completion

of any repair or reconstruction. If the funds available from insurance exceed the cost of repair, such excess shall be deposited in a capital account for the benefit of the BCA.

ARTICLE VIII

NO PARTITION

Except as is permitted in this Declaration or amendments thereto, there shall be no judicial partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Properties or any part thereof seek any judicial partition unless the Properties have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the BCA's Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

ARTICLE IX

CONDEMNATION / EMINENT DOMAIN

Whenever all or any part of the Common Area, shall be taken by (or conveyed in lieu of and under threat of condemnation by the BCA Board acting on the written direction of at least sixty seven percent (67%) of the total votes attributable to Lots any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the BCA, as trustee for all Owners, to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Voting Members representing at least sixty-seven percent (67%) of the total votes attributable to Lots, shall otherwise agree, BCA shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the BCA Board of Directors. If such improvements are to be repaired or restored, the provisions regarding the disbursement of funds in respect to casualty, damage or destruction which is to be repaired shall apply.

If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are funds remaining after any such restoration or replacement is completed, then such award or funds shall be disbursed to the BCA and used for such purposes as the Board of Directors of the BCA shall determine, in its sole discretion.

ARTICLE X

RIGHTS AND OBLIGATIONS OF THE BCA

Section 10.1 Common Area.

10.1.1 Property interests transferred to the BCA by the CDD may include fee simple title, easements, leasehold interests and licenses to use. Any fee simple interest in property transferred to the BCA by the CDD shall be transferred to the BCA by special warranty deed, free and clear of all liens (other than the lien for property taxes and Assessments not then due and payable), but shall be subject to the terms of this Declaration, and any and all easements, rights-of-way, reservations, covenants, conditions, restrictions, equitable servitude and other encumbrances of record or reserved by the CDD in the instrument of conveyance. The property or interest in property transferred to the BCA by the CDD may impose special restrictions governing the uses of such property and special obligations on the BCA with respect to the maintenance of such property.

10.1.2 The BCA, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the management and control of the Areas of Common Responsibility and shall maintain and keep the Areas of Common Responsibility in good repair and in accordance with the Baytree Building Standards, such maintenance to be funded as hereinafter provided. This maintenance shall include, but not be limited to, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and other flora, (which shall be governed by the requirements and regulations for landscaping as set forth in the Baytree Building Standards as promulgated by the BCA and as same may be amended from time to time) structures, and improvements. All Owners, by the acceptance of title to any property or the deed to any Lot, release and indemnify the BCA from all claims arising from its actions pursuant to this Section.

Section 10.2 Rules and Regulations. The BCA, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Properties, (exclusive of the Golf Course) which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines which shall constitute a lien upon the Owner's Lot or Lots and suspension of the right to vote and the right to use any recreational facilities on the Common Area, and exclusion from the Properties of any contractor, subcontractor, agent or other invitee who fails to comply with the provisions of such rules and regulations. The Board shall, in addition, have the power to seek relief in any court for violations or to abate unreasonable disturbances. Imposition of sanctions shall be subject to the procedures for disciplinary action provided in the By-Laws of the BCA. Fines shall constitute Benefit Assessments subject to the lien rights provided in this Declaration.

The BCA, through the Board, by contract or other agreement shall have the right to enforce all applicable federal, state and local laws, ordinances and regulations to permit the CDD, Brevard County, the SJRWMD or any other governmental agency having jurisdiction to enforce such rules and ordinances on the Properties.

Section 10.3 Implied Rights. The BCA may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

ARTICLE XI

ASSESSMENTS

Section 11.1 Creation of Assessments. There are hereby created Assessments for the BCA 's expenses as may from time to time specifically be authorized by the Board of Directors to be commenced at the time and in the manner set forth in this Article. There shall be four (4) types of Assessments: (a) Common Assessments for Common Expenses for the benefit of all Members of the BCA; (b) Neighborhood Assessments for Neighborhood Expenses benefitting only Lots within a particular Neighborhood or Neighborhoods; (c) Special Assessments as described in Section 11.5 below; and (d) Benefit Assessments as described in Section 11.6 below.

Common Assessments shall be made on a basis of one (1) Assessment per Lot. Neighborhood Assessments shall be levied equally on all Lots within the Neighborhood or whose benefit Neighborhood Expenses are incurred as provided in Section 11.4 below.

All Assessments, together with interest (at a rate not to exceed the highest rate allowed by Florida usury law) as computed from the date the delinquency first occurs, late charges, costs, and reasonable attorney's fees, shall be a charge on the Private Property (and improvements) to which they pertain and shall be a continuing lien upon the Private Property against which each Assessment is made. Each such Assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who owned such Private Property at the time the Assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable to the time of conveyance, except as otherwise provided in Section 11.11 below.

The BCA shall, upon the written request of any Owner, furnish, within ten (10) days after such written request, to any Owner liable for any type of Assessment a certificate in writing signed by an officer of the BCA setting forth whether such Assessment has been paid as to his particular Lot. Such certificate shall be conclusive evidence of payment to the BCA of such Assessment therein stated to have been paid. The BCA may require the advance payment of a processing fee not to exceed three months' Common Assessment on one (1) Lot for the issuance of each such certificate.

Assessments shall be paid in such manner and on such dates as may be fixed by the BCA Board of Directors and such determinations by the Board may include, without limitation, acceleration of that fiscal year's Common Assessments and any Neighborhood Assessments for delinquencies. Unless the Board otherwise provides, the Common Assessments and any Neighborhood Assessments shall be paid in annual installments and any Benefit Assessments shall be paid monthly in advance or as incurred.

No Owner may waive or otherwise exempt himself from liability for Assessments, including, by way of illustration and not limitation, by non-use of Common Areas or abandonment of the property. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. Each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be expressed in any such deed, shall be deemed to covenant and agree to pay the Assessments and such obligations shall be binding on all Merchant Builders or developers purchasing Lots for development and/or resale. No diminution or abatement of Assessments or setoff shall be claimed or allowed by reason of any alleged failure of the BCA or Board to take some action or perform some function required to be taken or performed by the BCA or Board under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the BCA, or from any action taken by the Declarant in connection with the development of Baytree or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Section 11.2 Purpose of Assessments. The Assessments levied by the BCA shall be used exclusively for the purpose of promoting the proper maintenance, replacement, repair and management of the Properties and in particular for operation of the BCA and fulfilling its obligations under the Declaration and all documents and agreements executed in connection herewith.

Section 11.3 Computation of Common Assessment. It shall be the duty of the Board of Directors to pass an annual budget for the BCA on or before January 1st of each year. A proposed budget shall be prepared by the BCA's Budget Committee and submitted to the Board of Directors in accordance with the By-Laws of the BCA. The budget shall include Common Expenses and estimated costs of operating the BCA during the next fiscal year. The budget may include a capital contribution establishing a reserve fund, in accordance with a reserve budget separately prepared, and shall separately list general and specific expenses, if any.

The budget and Common Assessments shall become effective upon approval of the majority of the Board of Directors as provided in the By-Laws.

Notwithstanding the foregoing, in the event the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year; provided, however, that upon the adoption of a new budget, the same shall be deemed retroactive to the beginning of the then current budget year and each Owner shall pay the increase, if any, in the Common Assessment from the beginning of such year at the time the next annual installment is due.

The Common Assessment to be levied for the coming year against each Property subject to Assessment shall be computed by dividing the budgeted Common Expenses by the total number of Assessment units described in Section 11.1 subject to Assessment and reasonably anticipated to become subject to Assessment during the fiscal year.

Section 11.4 Computation of Neighborhood Assessments. In addition to the Common Assessments authorized by Section 11.3 hereof, it shall be the duty of the BCA Board annually to prepare a separate budget covering the estimated Neighborhood Expenses to be incurred by the Association for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year at least sixty (60) days prior to the beginning of each fiscal year. The Board shall be entitled to set such budget only to the extent that this Declaration, Supplemental Declaration or written agreement with the Neighborhood Association specifically authorizes the Board to assess certain costs as a Neighborhood Assessment or the Lot Owners in such Neighborhood authorize same by a majority vote. Any Neighborhood, through its Neighborhood Committee and as evidenced by a petition, signed by a majority of the Owners within the Neighborhood, may request that additional services or a higher level of services be provided by the BCA, and if the BCA in its sole discretion, agrees to provide such higher level of service, any additional costs shall be added to such budget. Such budget may include a capital contribution establishing a reserve fund for repair and replacement of capital items within the Neighborhood, as appropriate. Neighborhood Expenses shall be allocated equally among all Lots within the Neighborhood(s) benefited thereby and shall be levied as a Neighborhood Assessment irrespective of the benefit as to any particular Lot. The Board shall cause a copy of such budget and notice of the amount of the Neighborhood Assessment to be levied on each Lot for the coming year to be delivered to each Owner of a Lot in the benefited Neighborhood(s) at least thirty (30) days prior to the beginning of each fiscal year. Such budget and Assessment shall become effective unless disapproved by a majority of the Owners of Lots in the Neighborhood to which the Neighborhood Assessment applies provided, there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least fifty percent (50%) of the Lots in such Neighborhood and provided further, the right to disapprove shall apply only to those line items in the Neighborhood budget which are attributable to services requested by the Neighborhood.

In the event the proposed budget for any Neighborhood is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year; provided, however, that upon the adoption of a new budget, the same shall be deemed retroactive to the beginning of the then current budget year and each affected Owner shall pay the increase, if any, in such Neighborhood Assessment from the beginning of the year at the time the next annual installment is due.

Section 11.5 Special Assessments.

11.5.1 As To All Owners. In addition to the Assessments authorized by Sections 11.3 and 11.4 of this Article, the BCA may levy Special Assessments applicable to that year only, provided any such Assessment which would exceed that year's Common Expenses for such year shall require the affirmative vote of a majority of the Members of the BCA. Such Special Assessment shall be for the purpose of defraying, in whole or in part, the cost of any acquisition, construction or reconstruction, or any unexpected expense or repair.

11.5.2 Less Than All Members. The BCA may levy a Special Assessment against any Member individually and against such Member's Lot, to reimburse the BCA for costs incurred

in bringing a Member and his Lot, into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the By-Laws, or the Rules and Regulations, which Special Assessment may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing. The BCA may also levy a Special Assessment against the Lots in any Neighborhood to (a) cover Neighborhood Expenses in excess of collected Neighborhood Assessments, and (b) reimburse the BCA for costs incurred in bringing the Neighborhood into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the By-Laws, and the Rules and Regulations, which Special Assessment may be levied upon the vote of the Board after notice to the Member of the Neighborhood and opportunity for a hearing.

Section 11.6 Benefit Assessments. The Board of Directors of the BCA may impose a Benefit Assessment upon any Owner whose use or treatment of a Lot increases the maintenance cost to the BCA above that which would result from compliance by the Owner with this Declaration or a Supplemental Declaration. The amount of such Assessment shall be equal to such cost increase and may be enforced in the manner provided for any other Assessment. Any charge imposed by the BCA for functions performed under Article XIII or any fine imposed shall be deemed a Benefit Assessment. Any charge for individual services, including, but not limited to, solid waste collection and disposal, Lot maintenance (including mowing and grooming of unimproved Lots) or landscaping maintenance performed by the BCA for a particular Lot, shall be deemed a Benefit Assessment.

Section 11.7 Lien for Assessments. Upon recording of a notice of lien on any Lot, there shall exist a perfected lien for unpaid Assessments. The lien of the BCA, when delinquent, may be enforced by suit, judgment and foreclosure.

The BCA, acting on behalf of its Members, shall have the power to bid for the Lot, as applicable, at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Lot, as applicable, is owned by the BCA following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no Assessments shall be levied on it; and (c) each other Lot, shall be charged, in addition to its usual Assessment, its equal pro rata share of the Assessment that would have charged the property owned by the BCA, had it not been acquired by the BCA as a result of foreclosure. Suit to recover a money judgment for unpaid Assessments and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 11.8 Reserve Budget and Reserve Contribution. The BCA Board of Directors may annually prepare a reserve budget which shall take into account the number and nature of replaceable assets, the useful life of each asset and the anticipated repair and replacement cost. If a reserve budget is established, the Board shall set the required reserve contribution, in an amount sufficient to permit meeting the projected needs of the Association, as shown on the reserve budget, with respect both to amount and timing of annual Assessments over the period of the budget. The reserve contribution required shall be fixed by the Board and included within and distributed with the budget and Common Assessment, as provided in Section 3 of this Article.

Section 11.9 Date of Commencement of Assessments. The obligation to pay the Assessments provided for herein shall commence as to each Lot, on the first day following the date

of conveyance of such Lot. The first year's Assessment shall be adjusted according to the number of months remaining in the fiscal year at the time Assessments commence on the Lot.

Section 11.10 Subordination of the Lien to First Mortgage. The lien of Assessments, including interest, late charges (subject to the limitations of Florida law), and costs (including attorney's fees) provided for herein, shall be subordinate to the lien of an Institutional Mortgagee's first mortgage upon any Lot. The sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot or other property which is part of the Properties and which is subject to foreclosure of an Institutional Mortgagee's first mortgage or is conveyed by deed in lieu of foreclosure, shall extinguish the lien of such Assessments as to payment which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from lien rights for any Assessments thereafter becoming due. Such unpaid share of Common Expenses or Assessments shall be deemed to be Common Expenses collectible from Owners of all the Lots, including such acquirer, its successors and assigns.

Section 11.11 Duties of the Board of Directors. The Board of Directors of the BCA shall prepare a roster of Owners and Neighborhoods (as applicable) or other property and Assessments applicable thereto which shall be kept in the office of the BCA and shall be open to inspection by any Owner; provided only the Board, an Owner or his First Mortgagee may look at the status of Assessments on the Owner's Property.

Section 11.12 Exempt Property. Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Common Assessments, Neighborhood Assessments, Special Assessments and Benefit Assessments:

11.12.1 all Common Area;

11.12.2 all property dedicated to and accepted by any governmental authority or public utility, including without limitation the CDD; and

11.12.3 all property comprising the Golf Course;

ARTICLE XII

ARCHITECTURAL STANDARDS

All property which is now or may hereafter be subjected to this Declaration except for property owned by the Golf Course owner, its successors and/or assigns, and/or the CDD, is subject to architectural and site plan review. The BCA has the power to require the submission, review and approval of plans and specifications through the ARC for the type, height, width, shape, size, location, color, appearance, elevation (if applicable) and materials of any structure or other improvement on a Lot and to enforce standards for the external appearance of any structure or improvement located on a Lot. This review shall be in accordance with this Article, and such standards as may be promulgated by the BCA Board or the ARC Standards as set forth in documents entitled the B-PARCS. The BCA Board of Directors shall have the authority and

standing, on behalf of the BCA, to enforce in courts of competent jurisdiction decisions of the committees established herein. No construction, which term shall include within its definition clearing, excavation, grading, and other site work, no exterior alteration or modification of existing improvements or landscape design, and no plantings of trees, plants or shrubs or removal of existing plants, trees, or shrubs shall take place except in strict compliance with this Article, and with the B-PARCS, until the requirements below have been fully met, and until the approval of the appropriate committee has been obtained; provided however no approval of the ARC or any other committee or person shall be required, and no requirements shall be imposed, in connection with construction, alterations or modifications, landscaping or improvements of the Golf Course and/or any improvements thereon. The BCA Board of Directors may establish reasonable fees to be charged by the committees on behalf of the BCA for review of an application for approval hereunder, which fees, if established, shall be paid in full prior to review of any application hereunder. Notwithstanding the foregoing, the BCA Board of Directors, in its discretion, may establish preliminary procedures for architectural review whereby an Owner or an Owner's agent may meet with the ARC for the purpose of exhibiting to such body preliminary concepts or drawings for the contemplated construction and in order to assist such Owner or Owner's agent in formulating a design which will comport with the architectural standards of the appropriate Committee. Such discussions shall not be binding on either Committee.

All structures constructed on any portion of the Properties except those owned by the Golf Course owner, its successors and/or assigns, and/or the CDD shall be designed by and built in accordance with the plans and specifications submitted to the ARC.

Section 12.1 ARC. Except as otherwise provided herein, the ARC shall have exclusive jurisdiction over all construction on any portion of the Properties. The ARC shall consist of at least three (3), but no more than five (5) persons, all of whom shall be required to be residents of Baytree and who shall serve terms subject to the sole discretion of the BCA's Board of Directors.

The ARC shall prepare and promulgate design and development guidelines and application and review procedures. Copies shall be available from the ARC for review by Owners, Merchant Builders, and developers who seek to engage in development of or construction upon all or any portion of the Properties, and such parties shall conduct their operations in accordance therewith. The guidelines and procedures shall be those of the BCA, and the ARC shall have sole and full authority to prepare and to amend them subject to the BCA's Board approval. In the event that the ARC fails to approve or disapprove plans submitted to it, or to request additional information it may require, within forty-five (45) days after submission thereof, the plans shall be deemed approved.

Section 12.2 No Waiver of Future Approvals. The approval of the ARC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ARC shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matter whatever subsequently or additionally submitted for approval or consent.

Section 12.3 Variance. The ARC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the Committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain the issuance of any permit, or the terms of any financing shall not necessarily be considered a hardship warranting a variance.

Section 12.4 Compliance. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the B-PARCS guidelines and procedures promulgated by the ARC may be excluded by the BCA Board from the Properties without liability to any person, subject to the notice and hearing procedures contained in the By-Laws. The ARC is specifically empowered to make recommendations to the BCA's Board of Directors with regard to determining the propriety of any constructed improvement or removing any unapproved improvements. The BCA shall indemnify and hold harmless the ARC from all costs, expenses, and liabilities, including attorney's fees, incurred by virtue of any service by a member of the ARC as a member of the ARC. If any Owner fails to abide by the terms of this Article or by the ARC Standards, the BCA may enter upon the Owner's Lot to correct the violation, including, but not limited to, removing unapproved improvements; provided, however, except when entry is required due to an emergency situation, the BCA shall afford the Owner a minimum of seven (7) days' notice and an opportunity to cure the problem prior to entry. All costs incurred by the BCA shall be assessed against the Lot and the Owner thereof as a Special or Benefit Assessment.

Section 12.5 Right to Inspect. There is specifically reserved unto the ARC the right of inspection upon any Private Property for the purpose of determination by the ARC whether there exists any construction or any improvements which violate the terms of any approval by the ARC or the terms of which the Declaration or of any other covenant, conditions and restrictions to which its deed or other instrument of conveyance or Plat makes reference.

The ARC is specifically empowered to recommend the enforcement of the provisions of this Declaration by any legal or equitable remedy, and shall recommend such enforcement to the BCA's Board of Directors in the event it becomes necessary to resort to litigation to determine the propriety of any constructed improvement, or to remove any unapproved improvements. The prevailing party shall be entitled to recovery of all court costs, expenses, reasonable attorney fees in connection therewith and the same shall be assessable and collectible in the same manner as any Assessment provided for herein. The Association shall indemnify and hold harmless the ARC from all costs, expenses, and liabilities, including attorney's fees, incurred by virtue of any service by a member of the ARC as a member of the ARC.

Section 12.6 Appeal. Any decision of the ARC may be appealed to the BCA's Board of Directors. The appeal must be filed in writing with the BCA's Secretary or the licensed community association manager currently employed by the BCA within (14) fourteen days from the date of the written decision of the ARC. The appeal shall set forth the decision of the ARC which is being appealed and shall succinctly set forth the grounds upon which the Appellant feels the ARC decision

shall be overturned, attaching any relevant documents the Appellant feels the Board should consider. Prior to the Board hearing on the Appeal, the ARC file shall be provided to the Board. The Board shall hear the appeal within thirty (30) days of the date of filing of the appeal. The hearing shall be open to all Members of the BCA, but only the ARC and the Appellant shall be entitled to present evidence and witnesses.

The Board may either:

12.6.1 Uphold the ARC decision;

12.6.2 Overrule the ARC decision;

12.6.3 Send the matter back to the ARC for further consideration based upon instructions provided by the Board; or

12.6.4 The Board of Directors shall provide the Appellant and the ARC its decision in writing.

ARTICLE XIII

USE RESTRICTIONS

The Properties shall be used only for residential, Golf Course, lakes, Conservation, and Water Management Areas as may more particularly be set forth in Brevard County Resolution, Number Z-8540 (Baytree Planned Unit Development Zoning) and this Declaration and any amendments or Supplement hereto. Any Supplemental Declaration or additional covenants imposed on the property within any Neighborhood may impose stricter standards than those contained in this Article. The BCA, acting through its Board of Directors, shall have standing and the power to enforce such standards contained in any such Supplemental Declaration.

The BCA, acting through its Board of Directors, shall have the authority to make and to enforce standards and restrictions governing the use of the Properties, in addition to those contained herein. Additional restrictions of a uniform and non-discriminating character may be approved by the BCA as to individual Neighborhoods in order to take into account special circumstances within such Neighborhoods. The use restrictions set forth in this Article shall be binding until and unless overruled, canceled or modified in a regular or special meeting of the BCA by the vote of Voting Members representing 67% of the total votes in the BCA. Such regulations and use restrictions shall be binding upon all Owners of Lots and occupants.

In no event shall the provisions of this Article XIII apply or be construed to apply to the property owned by the CDD or to the Golf Course Property including improvements thereon.

Section 13.1 Parking and Vehicular Restrictions. The only motor vehicles permitted to be parked on the Properties outside of a closed garage are automobiles, golf carts, passenger-type vans, sport utility vehicles, jeeps and pick-up trucks. Such vehicles must be non-commercial, have a

capacity of no more than two (2) tons and have no more than two (2) axles and must only be parked within parking areas designed and/or designated for such purpose. This restriction is designed to prohibit parking of Prohibited Vehicles, defined below, on Private Property, unless fully enclosed in a closed garage.

No person shall conduct repairs (except minor repairs in the event of an emergency) or restorations of any motor vehicle or other vehicle upon any portion of the Properties, except in an enclosed area with the doors thereto closed at all times. No parking on lawns or landscaped areas of any kind shall be permitted. No overnight parking on streets within the Properties from 2:00 a.m. to 7:00 a.m. shall be permitted, unless approved in writing or law by a governmental authority having jurisdiction over the right-of-way. No Owner shall park any motor vehicle on the Common Areas which is deemed a nuisance by the BCA's Board. No motor vehicle may be parked on the street with its front end facing the oncoming flow of traffic (i.e., motor vehicles which are parked on the street must face the same direction as the lawful flow of traffic). No motor vehicle may be parked within forty feet (40') (approximately two car lengths) of any stop sign at a four-way intersection or any stop sign at the end of a cut de sac. No motor vehicle may be parked for more than one (1) hour within one hundred twenty feet (120') (approximately six car lengths) of either end of a median on a street within the Properties.

No commercial vehicles, campers, mobile homes, motor homes, motorcycles, personal watercraft, mopeds or scooters of any kind, house trailers or trailers of every other description, recreational vehicles, boats, boat trailers, non-passenger vans, and vehicles which are not designed and used for customary, daily personal/family purposes ("Prohibited Vehicles") shall be permitted to be parked or stored at any place within the Properties, except in fully enclosed and closed garages. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive as to whether it is a commercial vehicle. The prohibitions on parking contained above in this Section shall not apply to temporary parking of commercial vehicles such as for construction use or providing pick-up and delivery and other commercial services in Baytree.

Subject to applicable laws, ordinances and Florida Statutes, any vehicle of any kind, whether a Prohibited Vehicle or otherwise, parked in violation of these or other restrictions contained herein or in the Rules and Regulations may be towed by the BCA at the sole expense of the owner of such vehicle. The BCA shall not be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing and once the notice is posted, neither its removal, nor failure of the owner to receive it for any reason shall be grounds for relief of any kind. An affidavit of the person posting the aforesaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

Anything herein to the contrary notwithstanding, members of the Golf Course and members of the public so permitted by the owner of the Golf Course, its successors and/or assigns, shall have the right to park their vehicles on the roadways located within the Properties, and shall have a right of access to and from the Properties for said parking at reasonable times before, during, and after golf tournaments and other similar functions held by or at the Golf Course. No toll or other fee shall be charged (by the BCA or otherwise) to any persons for the use of these rights of access and/or parking.

Section 13.2 Occupants Bound. All provisions of the Declarations, By-Laws, B-PARCS, and of any Rules and Regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests, invitees and lessees of any Owner. Every Owner shall cause his occupants to comply with the Declaration, By-Laws, B-PARCS, and the Rules and Regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Properties caused by such occupants, notwithstanding the fact that such occupants are fully liable and may be sanctioned for any violation of the Declaration, By-Laws and Rules and Regulations adopted pursuant thereto.

Section 13.3 Animals and Pets. No animals, wildlife, livestock, dangerous or venomous reptiles, or poultry of any kind shall be raised, bred, or kept on any portion of the Properties, except that dogs, cats or other usual and common household pets may be permitted in a Lot in compliance with Brevard County Ordinances. All pets shall be controlled by their Owner at all times. Those pets which, in the sole discretion of the BCA, endanger the health, make objectionable noise or constitute a nuisance or inconvenience to the Owners of other Lots or the Owner of any portion of the Properties shall be removed upon request of the Board within three (3) days of written request. No pets shall be kept, bred, or maintained on any Lots for commercial purposes. Household pets shall at all times whenever they are outside a Lot be confined on a leash held by a responsible person. Pets shall only be permitted on the Common Areas in such portions thereof as are so designated by the BCA. All persons bringing a pet onto the Common Areas shall be responsible for removing any solid waste of the pet.

Section 13.4 Nuisances. No portion of the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious, illegal or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Properties.

Section 13.5 Hazardous Materials. Hazardous materials shall only be stored on the Property if reasonably necessary to the maintenance of the Properties or operation of any permitted business within the Properties. All hazardous materials shall be stored, utilized and accounted for in accordance with all governmental requirements.

Section 13.6 Trash. No rubbish, trash, garbage or other waste material shall be kept or permitted on the Properties except in containers located in appropriate areas, if any, and in all events such containers shall not be visible from any of the Properties or the Golf Course except for the minimum time necessary for its collection. All trash dumpsters on Private Property must be screened from view on all four (4) sides and must be removed from the Properties on a regular basis so as not

to cause an unsanitary condition. No odor shall be permitted to arise there from so as to render the Properties or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No clothing or household fabrics shall be hung, dried or aired in a manner which is visible from any roadway, and no lumber, grass, shrub or tree clippings or plant waste, metals, bulk material or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Properties, except within an enclosed structure appropriately screened from view erected for that purpose.

All curb side placement for waste management or other contracted service pick-up shall comply with the B-PARCS.

Section 13.7 Unsightly or Unkempt Conditions. It shall be the responsibility of each Owner of a Lot to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Lot.

Section 13.8 Outside Installations. No exterior antennas, aerials, or other apparatus for the reception or transmission of television, radio, or other signals of any kind shall be placed, except as otherwise allowed by FCC Regulations as from time to time amended and as approved by the ARC. Satellite dishes may be approved by the ARC in compliance with FCC Regulations and as approved by the ARC. No radio station or shortwave operations of any kind shall operate from any Lot or Common Areas, except for communication equipment utilized by the BCA or as allowed by FCC Regulations and as approved by the ARC.

Section 13.9 Subdivision of Lot and Time Sharing. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board of Directors of the BCA. The Board may permit a division in ownership of any Lot intended for a single family detached residence as shown on a Plat, but solely for the purpose of increasing the size of the adjacent Lots. In the event of a division in ownership of any Lot, the Owners among whom the ownership is divided shall be treated as co-owners of the divided Lot for purposes of voting and shall be jointly and severally liable for all Assessment against the Lot hereunder.

No Lot shall be made subject to any type of timeshare program, interval ownership or similar program whereby the right to exclusive use of the Lot rotates among multiple Owners or members of the program on a fixed or floating time schedule over a period of years. This Section shall not prohibit ownership of a Lot intended for residential use by up to two (2) joint tenants or tenants-in-common nor shall it prohibit ownership by an Owner who is not a natural person.

Section 13.10 Tents, trailers, and temporary structures. Tents, utility sheds, shacks, trailers, outbuilding or other structures of a temporary nature shall not be placed upon any Lot, except as may be permitted by the BCA Board of Directors, for a period not to exceed forty-eight (48) hours, provided, however, any such structure visible to the Golf Course shall be subject to the prior approval of the Golf Course Owner.

Section 13.11 Insurance Rates. Nothing shall be done or kept in the Common Area which will increase the rate of insurance on any property insured by the BCA without the approval of the Board, nor shall anything be done or kept on any Private Property, or the Common Areas which would result in the cancellation of insurance on any property insured by the BCA or which would be in violation of law.

Section 13.12 Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 13.13 Utility Lines. No overhead utility lines, including without limitation lines for electric, telephone and cable television, shall be permitted within the Properties, except for temporary lines as required during construction, lines on or adjacent to the boundaries of the Property as the same exist or may be replaced and high voltage lines if required by law or for safety purposes.

Section 13.14 Wetlands, Lakes and Water Bodies. All lakes and ponds within the Properties, if any, are part of the surface water management system. Motorized boats, swimming and the use of personal flotation devices shall be prohibited on all bodies of water in addition to boating, fishing, and other activities. The BCA shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of lakes or ponds within the Properties. This Section shall not restrict the right to permit use of bodies of water within Baytree in connection with golf course play or maintenance by the CDD or Golf Course.

Section 13.15 Playground. Any playground or other play areas or equipment furnished by the BCA or any Neighborhood Association or erected within the Properties shall be used at the risk of the user, and neither the BCA or any Neighborhood Association shall be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

Section 13.16 Business Use. No trade or business may be conducted in or from any Lot, except that an Owner or occupant residing in a Lot may conduct business activities within the Lot so long as:(a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot; (b) the business activity conforms to all governmental requirements; (c) the business activity does not involve persons coming onto the residential properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Lot and does not constitute a nuisance, or hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board. (e) No garage or yard sales of any property shall be permitted.

The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee,

compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefore. Notwithstanding the above, the leasing of a Lot shall not be considered a trade or business within the meaning of this Section.

Section 13.17 Leasing of Lots.

13.17.1 Definition. Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity, or emolument.

13.17.2 This section only applied to Lots purchased after the recording date of this Amendment (May 22, 2023). No Lot may be leased until the owner of the Lot has lived on it continuously for a minimum of 18 months following acquisition of title. A shorter period may be allowed for circumstances beyond homeowner control (ie: job relocation, military assignment) only by petitioning and receiving approval of the Board. Leases in effect prior to the date of recording of this section 13.17.2 may remain valid until their expiration provided that the Management Company has a copy of the Lease in effect as of the date of recording of this section 13.17.2. A copy of any lease must be provided to the Management Company prior to its effective date.

13.17.3 Leasing Provisions. Lots may be rented only in their entirety; no fraction or portion may be rented. There shall be no subleasing of Lots or assignment of leases unless prior written approval is obtained from the BCA Board of Directors. All leases shall be in writing for a term not less than one (1) year, except with the prior written consent of the Board of Directors. All Owners must notify the BCA in writing upon leasing their Lot with the name and contact information of the lessee, terms of the lease and must provide proof that the lease meets the following requirements. Every lease for a Lot in Baytree must contain a provision which requires the lessee and all occupants to abide by the terms of this Declaration and all other rules, regulations, covenants, conditions and restrictions enforced by the BCA and must provide that failure to do so constitutes a material breach of the lease. In addition to those provided herein, additional terms and restrictions for leasing Lots within a Neighborhood may be described in the Neighborhood Documents.

13.17.4 Any Lot owner that does not comply with this Section in its entirety shall automatically be subject to a fine to be determined by the Board.

Section 13.18 Landscaping. Installation and removal of landscaping shall be subject to the prior approval of the ARC as set forth in Article X11 hereof. All landscaping shall be governed by the requirements and regulations for landscaping as set forth in the B-PARCS. No trees shall be removed except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons and such removal may be conditioned upon replacement of removed trees.

Section 13.19 Septic Tanks. Septic tanks are not permitted on any portion of the Properties.

Section 13.20 Any permitted use of golf carts within the Properties shall be at the sole risk of the operator thereof and no action shall be made against the Golf Course owner, the BCA, or the CDD in relation to personal injury or property damage resulting from such use, and each Owner who uses a private golf cart or permits the same to be used by his family, guests, invitees or agents agrees to indemnify the Golf Course owner, the BCA, and CDD from any claim, loss, damage, fee or costs resulting from use of the private golf cart by the Owner, his family, guests, invitees and agents. Use of golf carts on any rights-of-way within the Properties is subject to compliance with Florida and Brevard County law and each Owner and user of a private golf cart agrees to comply with any requirements of such law.

Section 13.21 Approval by ARC. The following use restrictions are restrictions that permit or prohibit certain conduct or uses and require certain permitted uses to be approved by the ARC in accordance with Article XII. The following restrictions are illustrative only and shall in no event be deemed a comprehensive list of items subject to approval in accordance with Article XII. In no event shall these or any other use restrictions apply to the Golf Course property and/or the improvements thereon.

13.21.1 Signs. No sign, billboard or advertisement of any kind, including, without limitation, those of realtors, contractors and subcontractors, shall be erected within the Properties without the written consent of the ARC, except as may be allowed or required by law. If permission is granted to any Owner to erect a sign within the Properties, the ARC reserves the right to restrict the size, color, lettering, height, material and location of the sign or to provide conforming signs for purchase. Under no circumstances shall signs, flags, banners or similar items advertising or providing directional information with respect to activities being conducted outside the Properties be permitted within the Properties. No sign shall be nailed or otherwise attached to trees.

13.21.2 Driveways and Walkways. All driveways and sidewalks shall be maintained in the style originally established or approved in accordance with Article XII.

13.21.3 Pools. No above-ground pools shall be erected, constructed or installed on any Lot; provided however, this provision shall not be deemed to prohibit spas or jacuzzies.

13.21.4 Wells and Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than the CDD may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains, but in no event shall such obstruction or rechanneling interfere with or adversely affect the drainage of the Golf Course. The CDD and the BCA hereby reserves for itself a perpetual easement across the Properties for the purpose of altering drainage and water flow, and the CDD and the BCA may require any Owner of Lot, or Neighborhood Association to treat any irrigation water which causes unsightly or unsanitary conditions.

13.21.5 Air Conditioning Units. No window air conditioning units may be installed on any Lot, except as approved in accordance with Article XII.

13.21.6 Lighting. Except for seasonal Christmas or holiday decorative lights, which may be displayed between Thanksgiving and January 10 only, all exterior lights must be approved in accordance with Article XII.

13.21.7 Artificial Vegetation, Exterior Sculptures and Similar Items. All artificial vegetation, exterior sculpture, fountains, flags and similar items must be approved in accordance with Article XII; provided, however, that nothing herein shall prohibit the appropriate display of the American Flag.

13.21.8 Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot unless it is an integral and harmonious part of the architectural design of a structure, and is approved in accordance with Article XII.

13.21.9 Fences. No fences of any kind shall be permitted on any Lot, except as approved in accordance with Article XII.

13.21.10 On-Site Fuel Storage. No on-site storage of gasoline or other fuels shall be permitted on any Lot except that up to five (5) gallons of fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment. Notwithstanding this provision, underground fuel tanks for storage of heating fuel for dwellings, pools, gas grills and similar equipment may be permitted on a Lot if approved in accordance with Article XII.

13.21.11 Hurricane and Storm Protection. Hurricane protection systems may be either a permanent or a temporary installation. The installation method, design, style, color, and type of materials shall determine the period of time they can be installed or remain closed. All permanent hurricane protection systems require approval by the ARC as to type, height, width, shape, size, location, color, appearance and materials prior to installation. Regardless of its material type, permanent installations which are structurally attached to cover a home's windows or doors must be of a retractable variety and must be designed to remain in an open position revealing the entire aperture (e.g., window, door) it is installed to protect when retracted. The retractable elements of a permanent installation are only permitted to be closed during specific times for particular lengths of time, as further explained herein. Unless manufactured of a flat, transparent material, all permanent installations must be the same color as the color of the house or the color of the trim of the house to which they are affixed. The only type of permanent installations allowed are Roller, Accordion, Colonial, or similar retractable style hurricane shutters. Bahama style shutters and other types of permanent coverings that obscure the windows or doors will not be permitted. Permanent installations may only be in the closed position on a home:

- (a) for a period of time not to exceed forty-five (45) consecutive days when no persons are to be occupying such home during that period of the year from June 1st to November 30th known as hurricane season ("Hurricane Season");
- (b) when a current "watch" or "warning" of a tropical storm or hurricane is in effect for the area of the Property as issued by the National Weather Service; or

- (c) when a severe tropical storm or hurricane is occurring.

Temporary hurricane protection systems that are not designed to be permanently attached to a house may be constructed of metal, plywood, structured polycarbonate, or hurricane resistant fabric. If the temporary protection system's structural attachment to the headers and footers are to be permanently affixed to a home for the purpose of installing temporary protection when necessary and permissible, such headers and footers must blend in with the window frame and be the same color as the color of the house or the color of the trim of the house. Temporary hurricane protection system installations are only permitted to be installed on a home when:

- (a) a current "watch" or "warning" of a tropical storm or hurricane is in effect for the area of the Property as issued by the National Weather Service; or
- (b) a severe tropical storm or hurricane is occurring;

Temporary hurricane protection system installations may remain installed on such home for a period of up to seven (7) days after a current "watch" or "warning" of a tropical storm or hurricane for the area of the Property as issued by the National Weather Service is no longer in effect or after a severe tropical storm or hurricane has occurred.

Notwithstanding anything herein to the contrary, during Hurricane Season only, if no persons are to be occupying a home for forty-eight (48) consecutive hours or more:

- (a) temporary hurricane protection systems made of unpainted opaque materials or fabrics may remain installed on such home for a period of time not to exceed fourteen (14) consecutive days when no persons are to be occupying such home during Hurricane Season;
- (b) temporary hurricane protection systems made of painted metal panels which are the same color as the color of the house, the color of the trim of the house, or corrugated clear panels may remain installed on such home for a period of time not to exceed forty-five (45) days when no persons are to be occupying such home during Hurricane Season; or
- (c) plywood may be installed over window or door openings only when a current "watch" or "warning" of a tropical storm or hurricane is in effect for the area of the Property as issued by the National Weather Service.

Should a tropical storm or hurricane occur, all plywood covering(s) must be removed no more than seven (7) days after a current "watch" or "warning" of a tropical storm or hurricane for the area of the Property as issued by the National Weather Service is no longer in effect or after a severe tropical storm or hurricane has occurred, and the ability of the BCA Board to extend the time shall be limited solely in the case of extreme storm damage.

13.21.12 Play Equipment, Etc. For the purpose of clarity herein, play equipment is characterized into one (1) of two (2) categories, permanent or mobile. Swing sets, basketball hoops and backboards, and similar recreational equipment may be permanently erected on a Lot once approval is obtained from the ARC, per Article XII. Such equipment must be maintained at or near its state of appearance and functionality as when it was originally approved. Should the equipment subsequently deteriorate or not be used over a reasonable period of time, the ARC approval is rescinded, and the equipment must be totally removed from any view of the Lot.

Mobile equipment, not limited to bicycles, tricycles, scooters, skateboards, wading pools, baby strollers and similar items shall be stored so as not to be visible from the Golf Course, streets or property adjacent to a Lot. No such items shall be allowed to remain on the Common Area or on Lots so as to be visible from adjacent property when not in use.

In the interest of community tranquility, no outdoor play equipment will be used before 8 a.m. and after sundown. The use of recreational or athletic equipment in such a manner that could result in injury to persons or damage to property is prohibited.

13.21.13 Window Coverings. Reflective window coverings are prohibited. No awnings, canopies or shutters shall be permanently installed on the exterior of any building unless first approved in accordance with Article XII.

Section 13.22 Additional neighborhood restrictions. The master plan of development of Baytree is comprised of separate neighborhoods which have Additional and Supplemental Restrictions, as set forth below:

NEIGHBORHOOD	RECORDING (Book.Page)	RECORDING DATE
Turn berry	3330/3405-3408	10/11/93
	4045/1037-1039	07/29/99
Chatsworth	4084/1353-1355	10/28/99
	4242/1632-1635	10/31/00
The Hamlet	4182/0574-0576	06/23/00
	4242/1636-1638	10/31/00
Arundel	4240/2500-2502	10/29/00
Balmoral/ Southpointe	4445/0200-0203	10/22/01

Said Supplemental and Additional Restrictions shall apply to the separate Neighborhoods as recorded in the Public Records of Brevard County, Florida and shall constitute Supplemental and Additional Restrictions for the respective Neighborhoods in addition to the Restrictions set forth herein in this Second Amended and Restated Recorded Declaration of Covenants, Conditions and Restrictions for Baytree Golf and Country Club.

ARTICLE XIV

NEIGHBORHOODS

Section 14.1 General. The Lots within a particular Neighborhood may be subject to additional covenants and/or the Lot Owners may all be Members of a Neighborhood Association in addition to the BCA. Any Neighborhood which does not have a Neighborhood Association shall elect a Neighborhood Committee at a Neighborhood meeting as described in the By-Laws.

Section 14.2 Request for Services. Each Neighborhood, upon the written consent of the Owners within the Neighborhood, which shall be delivered to the BCA and shall contain the signatures of such majority, may request that the BCA provide a higher level of service or special services for the benefit of Lots in such Neighborhood, the cost of which shall be assessed against the benefited Lots as a Neighborhood Assessment.

Section 14.3 Creation/ Designation of Neighborhoods. A Neighborhood may be created or designated by means of recording a Supplemental Declaration in the Public Records of Brevard County, Florida which Supplemental Declaration indicates the portion of the Properties containing Lots and/or Common Areas and facilities which is to comprise such Neighborhood. Existing Neighborhoods may be divided or combined in this manner. Notwithstanding anything herein to the contrary, any such Supplemental Declaration which creates or designates a Neighborhood by combining or dividing existing Neighborhoods must be approved by the affirmative vote of sixty-seven percent (67%) of the Lots in each of the affected Neighborhoods.

ARTICLE XV

GOLF COURSE FACILITIES

Section 15.1 Golf Course. The Golf Course is Private Property and shall be administered according to membership policies and rules and regulations adopted by the owner of the Golf Course thereof from time to time. Owners shall not be permitted to begin play from Lots and the same shall be deemed a trespass to the Golf Course property. The Golf Course facilities may include, without limitation, Golf Course, clubhouses, driving range, putting green, etc. which are separate from, and in no way shall be considered a part of, the Common Areas. The Golf Course shall be developed and maintained at the discretion of the owner of the Golf Course. The Golf Course owner has the exclusive right to determine from time to time, in its sole discretion and without notice or approval of any change, how and by whom these facilities shall be used, if at all. By way of example, but not limitation, such owner has the right to approve users and determine eligibility for use, to reserve use rights, to terminate any or all use rights, to change, eliminate or cease operation of any or all of the facilities, to transfer any or all of the Golf Course or the operation thereof to anyone (including without limitation a member-owned or equity club) and on

any terms, to limit the availability of use privileges, to allow public play, and to require the payment of membership fees, dues, use charges and other charges for use privileges. Ownership of a Lot or any other portion of the Property or membership in the Association or any Neighborhood Association does not give, nor shall it be construed to give, any right, vested or otherwise, or any easement, prescriptive or otherwise, to use the Golf Course, and/or any and all improvements thereon, and does not grant any ownership or membership or other interest therein.

Section 15.2 Jurisdiction and Cooperation. It was Declarant's intention that Golf Course owner, the BCA and CDD shall cooperate with each other to the maximum extent possible in the maintenance and operation of their respective properties. Each shall reasonably assist the other in upholding the Community-Wide Standard as set from time to time. The BCA shall have no power to promulgate Rules and Regulations affecting activities on or use of the Golf Course without the prior written consent of the owners of the Golf Course which consent may be granted or withheld at the sole discretion of the owners of the Golf Course.

Section 15.3 Easement for Golf Balls. Every Lot is burdened with an easement permitting golf balls hit from the Golf Course to unintentionally come upon the Lot and for golfers and their caddies at reasonable times and in a reasonable manner to come upon the exterior portions of the Lot to retrieve errant golf balls. All Owners, by acceptance and delivery of a deed to a Lot, assume all risks associated with errant golf balls, and all Owners agree and covenant not to make any claim or institute any action whatsoever against The BCA, the owner of the Golf Course, the golf course designer, or any other party other than the golfer or caddy who caused the property damage or personal injury, arising or resulting from any errant golf balls or golf clubs, golf carts, any property damage or personal injury that may be caused thereby, or for negligent design of the golf course or siting of the Lot. Nothing in this paragraph shall in any way relieve golfers from liability for damages resulting from errant golf balls.

Section 15.4 Assumption of Risk and Indemnification. Each Owner by its purchase of a Lot in the vicinity of the Golf Course hereby expressly assumes the risk of noise, personal injury or property damage caused by maintenance and operation of the Golf Course, including, without limitation: (a) noise from maintenance equipment at any and all times although such maintenance typically takes place around sunrise or sunset, (b) noise caused by golfers, (c) use of pesticides, herbicides and fertilizers, (d) view restrictions caused by maturation of trees and shrubbery, (e) reduction in privacy caused by constant golf traffic on the Golf Course or the removal or pruning of shrubbery or trees on the Golf Course, (f) errant golf balls and golf clubs, and (g) design of the Golf Course and agrees that neither the BCA nor any other entity owning or managing the Golf Course shall be liable to Owner or any other person claiming any loss of damage, including, without limitation, indirect, special, or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment or any other alleged wrong or entitlement to remedy based upon, due to, arising from or otherwise related to the proximity of Owners Lot to the Golf Course, including, without limitation, any claim arising in whole or in part from the negligence of the BCA or any other entity owning or managing the Golf Course. The Owner hereby agrees to indemnify and hold harmless the BCA and any other entity owning or managing the Golf Course against any and all claims by Owner's visitors, tenants and others upon such Owner's Lot.

Section 15.5 Golf Course Maintenance. There is hereby reserved for the benefit and use of the Golf Course and the club to be located thereon, and its/their agents, employees, successors, and assigns, the perpetual, non-exclusive right and easement over and across all unimproved portions of Properties subject to this Declaration which are adjacent to the fairways, tees, and greens of the Golf Course. This reserved right and easement shall permit, but shall not obligate the owner of the Golf Course and the club to be located thereon, and its/their agents, employees, successors, and/or assigns, to go upon any such Property to maintain or landscape the area encumbered by such easement. Such maintenance and landscaping shall include planting of grass, watering, application of fertilizer, mowing and the removal of underbrush, stumps, trash or debris, and trees of less than six (6) inches in diameter at a level of four and one-half feet (4 1/2') above the ground level. The area encumbered by this easement shall be limited to the portion of such Properties within thirty (30) feet of those boundary lines of such Properties which are adjacent to such fairways, tees, or greens; provided, however, the entire unimproved portions of each such Property shall be subject to such easement until the landscaping plan for such Property has been approved and implemented.

Section 15.6 Golf Course Operation. There is hereby reserved for the benefit and use of the owner of the Golf Course and the club to be located thereon, and its/their agents, employees, successors and/or assigns, perpetual, non-exclusive, transferable, appendant, and appurtenant easements on, over, under, across and/or through the Properties for commercial purposes to locate, construct, allow for, operate, use, maintain, repair, and/or replace utilities, drainage systems, sewer systems, water systems, irrigation systems, golf course access, golf course maintenance, cart paths, bridges, sight, golf ball retrieval, signage, parking, ingress and egress, and any and all other purposes of any nature whatsoever as may be reasonably necessary for use of the Golf Course property as a golf course with associated improvements, including, but not necessarily limited to, a clubhouse, driving range and maintenance shed. The easements reserved herein are of a commercial nature and shall be freely transferable with the ownership of the Golf Course property. All such easements are to be located at locations to be mutually agreed upon between the Owner of the encumbered property, or its successors and/or assigns, and the owner of the Golf Course property, or its successors and/or assigns, with each acting within the bounds of good faith and fair dealing. The easements are to be utilized by the owner of the Golf Course, its successors and/or assigns, employees, guests, invitees, and/or others acting with its permission, and by the club to be located on the Golf Course property, its successors, assigns, members, employees, guests, invitees and others acting by or with its permission. The owner of the Golf Course, its successors and/or assigns, shall be responsible for the repair of any damage caused by entrance upon the Properties for the location, construction, operation, use, repair and/or replacement of any and all such easements and for the performance of any and all work in connection with the easements and for the performance of any and all work in connection with the easements in strict compliance with any and all applicable governmental regulations. Entrance to and from, and work on, the Properties shall be done in such a manner as to minimize the interference with the use and aesthetics of the Properties. General maintenance of all easements granted herein shall be the responsibility of the Owner of the encumbered property, its successors and/or assigns, unless the easement specifically serves only the Golf Course and does not also serve the Properties, in which case the owner of the Golf Course, its successors and/or assigns, shall be responsible for the general maintenance of any such easement(s). If an Owner fails to maintain an easement it is required to maintain under the terms hereof, the owner of the Golf Course, its successors and/or assigns, shall have the right, but not the obligation, to maintain such easement(s).

Section 15.7 Access to the Golf Course. The owner of the Golf Course and the club to be located thereon, and its/their agents, employees, successors and/or assigns, quests, invitees, and/or others acting by or with its/their permission shall have access to and from the Golf Course over the Properties via Wickham Road, Baytree Drive, and any and all other streets within Baytree. Access to and from the Golf Course over the Properties via Wickham Road, Baytree Drive, and any and all other streets within Baytree shall not be restricted in any manner whatsoever.

ARTICLE XVI

GENERAL PROVISIONS

Section 16.1 Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the BCA or the Owner of any Properties subject to this Declaration, their respective legal representatives, heirs, successors, and/or assigns, for a term of thirty (30) years from the date this Second Amended and Restated Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each, unless an instrument in writing, signed by sixty seven percent (67%) of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein. Notwithstanding the foregoing, any terms, provisions, covenants, restrictions or prohibitions contained herein which relate to, pertain to or affect any environmentally sensitive areas of the Properties or any portion of the Properties which is subject to the rules, ordinances or regulations of the Federal Government, the State of Florida or the County of Brevard or any agency or body of the foregoing shall be applicable to the Properties in perpetuity unless the waiver of same shall have been obtained from the appropriate party or unless the rule, ordinance or regulation shall have been abrogated or repealed by the appropriate party.

Section 16.2 Amendment. Any amendment initiated by the BCA, which has a materially adverse effect on the Owner of Private Property, shall require the affirmative vote (in person or by alternate) or written consent, or any combination thereof, of Members representing sixty-seven percent (67%) of the total votes in the BCA. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the Public Records of Brevard County, Florida.

In addition, this Declaration may be amended by a unanimous vote of the Voting Members, however, no such Voting Member amendment shall relate to: (a) the power of the Board of Directors or the Voting Members; (b) how the Board of Directors or Voting Members are elected or appointed; (c) the power of the Board of Directors or Voting Members to borrow money and mortgage BCA property; or (d) the power of the Board of Directors or Voting Members to enact assessments.

No amendment which affects the Surface Water Management System within the Properties or maintenance thereof shall be effective without the prior written consent of the CDD, SJRWMD and the owner of the Golf Course, its successors and/or assigns.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Section 16.3 Indemnification. The BCA shall indemnify and hold harmless every officer, Director, Voting Member, and committee member against any and all expenses, including counsel and paralegal fees, reasonably incurred by or imposed upon such officer, Director, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, Director, or committee member. The officers, Directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and Directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the BCA (except to the extent that such officers or Directors may also be Members of the BCA), and the BCA shall indemnify and forever hold each such officer and Director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, Director, or committee member, or former officer, Director, or committee member may be entitled. The BCA shall, as a common expense, maintain adequate general liability and officers' and Directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 16.4 Easements for Utilities, Etc. There is hereby reserved unto the BCA, the CDD, and the designees of each (which may include, without limitation, Brevard County, Florida, and any utility company), blanket easements upon, over, across, and under all of the Properties for ingress and egress; dispensing pesticides; installation, replacing, repairing, relocating and maintaining restricted access and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewer, meter boxes, telephones, gas and electricity, provided the exercise of this easement shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry into any Lot shall be made only after reasonable notice to the Owner or occupant thereof.

Without limiting the generality of the foregoing, there are hereby reserved for the local water, electric and gas supplier easements across all Lots for ingress, egress, installation, reading, replacing, repairing, and maintaining meter boxes. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties, except as may be approved by the BCA's Board of Directors.

Should any entity furnishing a service covered by the general easements herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement over the Properties without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Properties.

The BCA's Board of Directors shall have, by a unanimous vote of the Board of Directors, the power to dedicate portions of the Common Area to the CDD, Brevard County, Florida, or to any other local, state or federal governmental entity, subject to such approval requirements as may be contained in this Declaration.

Section 16.5 Severability. Invalidation of any one (1) 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.

Section 16.6 Right of Entry. The BCA, fire, police, health, sanitation, postal and other public service personnel and their vehicles shall have a permanent and perpetual easement into, out of, and over the Properties for the purpose of performing their appropriate and lawful functions; to abate nuisances (including, without limitation, false burglar alarms) and to inspect for the purpose of ensuring compliance with this Declaration. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include, but not be limited to, the right of the BCA to enter a Lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after request by the Board.

Section 16.3 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the BCA unless approved by a vote of the Voting Members representing seventy-five percent (75%) of the total votes in the BCA. This Section shall not apply, however, to (a) actions brought by the BCA against parties to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of Assessments as provided herein, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the BCA in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 16.8 Cumulative Effect; Conflict. The covenants, restrictions, and provisions of this Declaration shall be cumulative with those of any Neighborhood Association and the BCA may, but shall not be required to, enforce the latter; provided, however, in the event of conflict between or among such covenants and restrictions, and provisions of any Articles of Incorporation, By-Laws, B-PARCS, Rules and Regulations, policies, or practices adopted or carried out pursuant thereto, the following shall control in the following order of priority:

- (a) Florida Statutes
- (b) Declaration
- (c) Articles of Incorporation
- (d) By-Laws
- (e) "B-PARCS"
- (f) Local Neighborhood Rules and Regulations

In addition, the provisions of Chapter 720 of the Florida Statutes, as from time to time amended, are incorporated into this Declaration by reference. Any provisions of Chapter 720 in conflict with any Homeowners' documents shall control.

Section 16.9 Use of the Term "Baytree". No person shall use the term "Baytree" or any derivative thereof in any printed or promotional material without the prior written consent of the BCA's Board of Directors. However, Owners may use the term "Baytree" in printed or promotional matter where such term is used solely to specify that particular property is located within "Baytree" and the BCA shall be entitled to use the word "Baytree" in their respective names.

Section 16.10 Compliance. Every Owner and occupant of any Lot, their guests and invitees, and to the extent applicable to use of the Golf Course, all members of the Golf Course and all daily fee players shall comply with all lawful provisions of this Declaration the By-Laws and Rules and Regulations of the BCA. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the BCA or, in a proper case, by any aggrieved Property. Further, in the event of any violation of any ordinances, rules or restrictions imposed by the County of Brevard with respect to the Properties, the County of Brevard may, without the consent of the BCA or any Person, seek judicial enforcement of such ordinances, rules or restrictions; and if such enforcement shall be required by a court of competent jurisdiction, the County of Brevard shall be entitled, in addition to all other awards or directions of enforcement, to all reasonable attorney's fees and court costs incurred by said County relative to its enforcement of the foregoing.

Section 16.11 Notice of Transfer of Lot. In the event that any Owner desires to sell or otherwise transfer title of his or her Lot, such Owner shall give the BCA Board of Directors at least seven (7) days prior written notice of the name and address of the purchaser or transferee, the date on which such transfer of title is to take place, and such other information as the Board of Directors may reasonably require. Until such written notice is received by the Board of Directors, the transferor shall remain jointly and severally liable with the transferee for all obligations of the Owner of the Lot, including payment of all Assessments, notwithstanding the transfer of title to the Lot.

Section 16.12 Dissolution of BCA. The BCA shall not be dissolved nor shall it dispose of any real property contained within the Common Area, by sale or otherwise (except to an entity organized for the purpose of owning and maintaining such Common Areas), without the prior approval of all Owners, their mortgagees and any governmental agencies having jurisdiction over the Properties.

Section 16.13 Exclusion of Golf Course Property. Except as specifically provided herein, nothing herein shall be construed as subjecting, or to subject, the Golf Course property and/or any and/or all of the improvements thereon to this Declaration.

Section 16.14 Contract Management. All BCA contracts that have a term of one year or greater and involve goods or services costing in excess of \$1,000.00, shall be reviewed and the contractor's performance evaluated annually, prior to contract renewals, by the BCA's Board of Directors at a Public meeting.

ARTICLE XVII

MORTGAGEE/PROVISIONS

The following provisions are for the benefit of First Mortgagees holding mortgages on Lots. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

Section 17.1 Notice to Mortgagee. A First Mortgagee who provides written request to the BCA (such request to state the name and address of such holder, insurer, or guarantor and the Lot number), will be entitled to timely written notice of:

17.1.1 any condemnation loss or any casualty loss which affects a material portion of the Properties;

17.1.2 any delinquency in the payment of Assessments or charges owed by an Owner of a Lot subject to the mortgage of such First Mortgagee, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision any First Mortgagee, upon request, is entitled to written notice from the BCA of any default in the performance by such Owner of any obligation under the Declaration or By-Laws of the BCA which is not cured, within sixty (60) days;

17.1.3 any lapse, cancellation, or material modification of any insurance policy maintained by the BCA; or

17.1.4 any proposed action which would require the consent of a specified percentage of eligible holders.

Section 17.2 Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least sixty-seven percent (67%) of the First Mortgagees or Members representing at least sixty-seven percent (67%) of the total BCA vote entitled to be cast thereon consent, the BCA shall not:

17.2.1 by act or omission seek to abandon, alienate, release, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the BCA owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consisting with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);

17.2.2 change the method of determining the obligations, Assessments, dues, or other charges which may be levied against an Owner of a Lot (a decision, including contracts, by the Board or provisions of any Supplemental Declaration recorded on any portion of the Properties regarding Assessments for Neighborhoods or other similar areas shall not be subject to this provision where such decision or Supplemental Declaration is otherwise authorized by this Declaration);

17.2.3 by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Lots and of the Common Area (The issuance and amendment of architectural standards, procedures, rules and regulations, of use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

17.2.4 fail to maintain insurance, as required by this Declaration; or

17.2.5 use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

Section 17.3 Taxes. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of a policy held by the BCA, and First Mortgagees making such payments shall be entitled to immediate reimbursement from the BCA.

Section 17.4 No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the First Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 17.5 Notice to the BCA. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any mortgage encumbering such Owner's Lot.

Section 17.6 Amendment by the BCA Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirement less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

Section 17.7 Applicability of this Article. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or Florida law for any of the acts set out in this Article.

Section 17.8 Failure of Mortgagee to Respond. Any Institutional Lender who received a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the BCA does not receive a written response from the Institutional Lender within thirty (30) days of the date of the BCA's request.

ARTICLE XVIII

DECLARANTS RIGHTS

Section 18.1 Declarant. The Declarant and its successors or assigns will undertake the work of constructing Lots to be held for sale. The completion of that work and the sale, rental and other disposal of Lots is essential to the establishment and welfare of Baytree as a community. As used in this Section and its subparagraphs, the words "its successor or assigns specifically do not include purchasers of completed Lots. In order that said work may be completed and Baytree established as a fully occupied community as rapidly as possible, no Owner or the Association shall do anything to interfere with the Declarants activities. Without limiting the generality of the foregoing, nothing in this Declaration or the Articles or By-Laws shall be understood or construed to:

18.1.1 Prevent the Declarant, its successors or assigns, or its or their contractors or subcontractors, from doing on any property owned by them whatever they determine to be necessary or advisable in connection with the completion of said work, including without limitation, the alteration of its construction plans and designs as the Declarant deems advisable in the course of development (all models or sketches showing plans for future development of the Properties may be modified by the Declarant at any time and from time to time, without notice); or

18.1.2 Prevent the Declarant, its successors or assigns or its or their contractors, subcontractors or representatives from erecting, constructing and maintaining on any property owned or controlled by the Declarant, or its successors or assigns or its or their contractors or subcontractors, such structures as may be reasonably necessary for the conduct of its or their business of completing said work and establishing Baytree as a community and disposing of the same by sale, lease or otherwise; or

18.1.3 Prevent the Declarant, its successors or assigns or its or their contractors or subcontractors, from conducting on any property owned or controlled, by the Declarant or its successors or assigns, its or their business of developing, subdividing, grading and constructing improvements on the Properties and of disposing of Lots therein by sale, lease, or otherwise; or

18.1.4 Prevent the Declarant, its successors or assigns, from determining in its sole discretion the nature of any type of improvements to be constructed as part of Baytree.

Any or all of the special rights and obligations of the Declarant may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records of Brevard County, Florida. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any additional property in any manner whatsoever.

The Declarant expressly reserves the right to grant easements and rights of-way over, under and through the Surface Water Management Area, the Conservation Areas, the Common

Areas, or portions thereof, so long as the Declarant owns any property subject to this Declaration primarily for development and/or resale.

Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Lots shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area and Lots owned by Declarant such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Lots, including, but not limited to, business offices, signs, model lots, and sales offices, and the Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use any Lot owned by the Declarant and activity center which may be owned by the Association, as models, or information or sales offices.

So long as Declarant continues to have rights under this paragraph, no Person shall record any Declaration of Covenants, Conditions and Restrictions, or similar instrument affecting any portion of the Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such Declaration of Covenants, Conditions and Restrictions, or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

ARTICLE XIX

COMMUNITY DEVELOPMENT DISTRICT

Section 19.1 General. The BCA and each Owner of a Lot acknowledge that the CDD has been created in accordance with Chapter 190, Florida Statutes, for the purpose of implementing a program for the acquisition, construction, operation and maintenance of community facilities and services including, but not limited to, certain roads within the Property, the Surface Water Management System for the property, a potable water system, and sanitary sewer system.

Section 19.2 Covenant to Pay Community Development Charges. Each Owner of a Lot, for all real property now or hereafter owned within the CDD, covenants and agrees to pay any and all community development assessments, fees, charges and taxes which may be imposed upon such property to fund all or part of the cost of the acquisition, construction, operation and maintenance of community improvements and facilities, debt service thereof, and any other cost incurred by the CDD.

IN WITNESS WHEREOF, this Second Amended and Restated Declaration has been executed on the _____ day of _____, 2008 .

Signed, sealed and delivered
In the presence of:

BAYTREE COMMUNITY
ASSOCIATION, INC.
a Florida not for profit Corporation

(Witness 1 – sign)

By: _____
George Anton, President

(Witness 1 – print)

(Witness 2 – sign)

(Witness 2 – print)

(Witness 1 – sign)

Attest: _____
Vito Jimenez, Secretary

(Witness 1 – print)

(Witness 2 – sign)

(Witness 2 – print)

STATE OF FLORIDA
COUNTY OF **BREVARD**

The foregoing instrument was acknowledged before me this ___ day of _____, 200___, by George Antoon as President and Vito Jimenez as Secretary of BAYTREE COMMUNITY ASSOCIATION, INC., a Florida corporation, on behalf of the corporation, [] who are personally known to me or [] who have produced _____ as identification.

NOTARY PUBLIC

State of Florida at Large
My Commission Expires: