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**THE VILLAS OF SOUTH PADRE  
FOURTH RESTATED AND AMENDED  
DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS**

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**December 1, 2004**

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THE VILLAS OF SOUTH PADRE  
FOURTH RESTATED AND AMENDED  
DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS

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**THE VILLAS OF SOUTH PADRE  
FOURTH RESTATED AND AMENDED  
DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS**

**THIS FOURTH RESTATED AND AMENDED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS** (this "Declaration") is made effective on the date hereinafter set forth by The Villas of South Padre, Inc., a Texas corporation (hereafter the "Declarant"); Playa San Pablo, Ltd., a Texas limited partnership; and The Villas of South Padre Owners Association, Inc., a Texas non-profit corporation, and their respective successors and assigns.

**RECITALS**

A. Declarant is the owner of certain portions of land located in Cameron County, Texas, which is more legally and particularly described on **EXHIBIT A** attached hereto and made a part hereof. Declarant has previously created an exclusive planned community known as The Villas of South Padre on the Property.

B. In furtherance thereof, Declarant has previously, to provide for the orderly development of the Property, to assure quality standards for the enjoyment of the Property and to promote the quality of life for the residents of the Property, subjected the Property, as well as such additional property as may hereafter be brought within the jurisdiction hereof, to the covenants, conditions, restrictions, easements and liens of that certain Declaration of Covenants, Conditions, Restrictions and Easements, dated March 1, 1999, and recorded in Volume 5454, Page 9, Official Records of Cameron County, Texas (as amended by First Amendment to the Villas of South Padre Declaration of Covenants, Conditions, Restrictions and Easements recorded in Volume 5597, Page 162, Official Records of Cameron County, Texas, and as further restated and amended by The Villas of South Padre Restated and Amended Declaration of Covenants, Conditions, Restrictions and Easements recorded in Volume 7368, Page 1, Official Records of Cameron County, Texas, by The Villas of South Padre Second Restated and Amended Declaration of Covenants, Conditions, Restrictions and Easements recorded in Volume 8898, Page 119, Official Records of Cameron County, Texas, and by The Villas of South Padre Third Restated and Amended Declaration of Covenants, Conditions, Restrictions and Easements recorded in Volume 9910, Page 138 et seq., Official Records of Cameron County, Texas, the "Original Declaration").

C. Declarant has also previously created The Villas of South Padre Owners Association, Inc., a Texas not-for-profit association to manage the Property. Such Association (as hereinafter defined) shall and does own, operate, maintain and administer all of the Common Property (as hereinafter defined). The Association shall and does administer and enforce the covenants, conditions, restrictions and limitations set forth herein. The Association shall and does enforce the easements created herein, and has the exclusive right to amend the same, and collects and disburses the Assessments herein created.

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D. Playa San Pablo, Ltd., a Texas limited partnership, is the owner of certain land located in Cameron County, Texas, which is legally and particularly described on EXHIBIT B (hereafter the "Additional Property"). Playa San Pablo is in the process of creating an exclusive condominium project on the Additional Property to be known as Las Villas Condominiums.

E. In furtherance thereof, Playa San Pablo, Ltd., in order to provide for the orderly development of the Additional Property, to assure quality standards for the enjoyment of the Additional Property and to promote the quality of life for the residents of the Additional Property, subjects the Additional Property, as well as such additional property as may hereafter be brought within the jurisdiction hereof, to the covenants, conditions, restrictions, easements and liens contained in this Fourth Restated and Amended Declaration of Covenants, Conditions, Restrictions and Easements.

F. Therefore, Declarant (proforma), Playa San Pablo, Ltd. (proforma), and The Villas of South Padre Owners Association, Inc., desire to restate and amend the Original Declaration such that this Declaration is being executed in total replacement of, and in substitution for, the Original Declaration. In accordance with Section 12.4 of the Third Restated and Amended Declaration of Covenants, Conditions, Restrictions and Easements, Declarant and the Association warrant and represent that the requisite number of all of the Members of the Association have approved this Fourth Restatement and Amendment to the original Declaration such that this Declaration is being executed in total replacement of, and in substitution for, the original Declaration and its subsequent Restatements.

NOW, THEREFORE, Declarant (proforma) and The Villas of South Padre Owners Association, Inc., hereby reaffirm and declare that all of the Property described in EXHIBIT A and Playa San Pablo, Ltd. hereby declares that all of the Additional Property described in EXHIBIT B shall and is being held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property, and be binding on all parties having any right, title or interest in the Property or any part thereof, and their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I  
CERTAIN DEFINITIONS

Section 1.1 "Additional Property" shall mean the real property which is more legally and particularly described on EXHIBIT B attached hereto and made a part hereof.

Section 1.2 "ARC" shall mean the Architectural Review Committee, as established pursuant to Article 6 hereof.

Section 1.3 "Articles" shall mean and refer to the Articles of Incorporation of the Association, as amended from time to time.

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Section 1.4 "Assessments" means all assessments provided for in this Declaration including, but not limited to, Annual Assessments, Special Assessments, and Lot Assessments.

Section 1.5 "Association" shall mean and refer to The Villas of South Padre Owners Association, Inc., a Texas non-profit corporation, and its successors and assigns.

Section 1.6 "Board of Directors" shall mean the Board of Directors of the Association.

Section 1.7 "Bylaws" shall mean and refer to the Bylaws of the Association, as amended from time to time. A copy of the Bylaws current as of the date hereof is attached hereto as **EXHIBIT D**.

Section 1.8 "Common Property" shall mean and refer to those portions of the Property contained within and being a part of the Property and which are, and/or have been, deeded to the Association and designated in the deed as "Common Property", together with such improvements thereon as are specifically conveyed to the Association. The term "Common Property" shall include, without limitation, the Common Roads, perimeter walls, seawalls, clubhouse, swimming pool, tennis court, monuments, drainage facilities, retention ponds, screening walls, landscaping and irrigation systems within the Common Property, and any other areas lying within dedicated public easements or rights-of-way as deemed appropriate by the Board of Directors for the preservation, protection and enhancement of the values of the Property, the Additional Property and the Lots, and the general health, safety and welfare of the Owners. The term "Common Property" shall not include, however, any portion of the Additional Property or the "common elements" thereof, provided, if and when the Additional Property is subjected to a condominium regime, the Owners of Dwelling Units thereon will not be allowed to utilize any of the Common Property except as otherwise set forth in Section 3.2. Similarly, the Owners of Dwelling Units within the Property will not be allowed to utilize any of the amenities or "common elements" contained or located within the Additional Property and such amenities or "common elements" shall be for the exclusive use of only the Owners of Dwelling Units located within the Additional Property, together with their guests, tenants and invitees.

Section 1.9 "Common Roads" shall mean and refer to the roads contained within and being a part of the Property, including road rights-of-way, whether or not paved, all as depicted on any Plat of the Property, and which, subject to the provisions of Section 3.2, provide ingress and egress to a Lot or any Dwelling Unit and shall mean and refer to any and all gates, gate houses, gate systems or other improvements constructed or placed on, over, under, across, or adjacent to the Common Roads or the Property by Declarant or the Association as they may deem necessary or appropriate for the purpose of providing limited security to the Property.

Section 1.10 "Condominium Project" shall mean and refer, as applicable, to a ten story thirty eight (38) Dwelling Unit condominium project which may be built on the Additional Property.

Section 1.11 "Declarant" shall mean and refer to The Villas of South Padre I, Inc., a Texas corporation (and its affiliated or related entities), successor-in-interest by liquidation to The Villas of South



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Padre I, Ltd., a Texas limited partnership, and its successors and assigns, but only if and to the extent Declarant specifically assigns its rights to any such successors or assigns and, incident thereto, any such successors or assigns specifically assume the obligations of Declarant under this Declaration, the Articles and the Bylaws. Declarant may assign all or part of its rights on an exclusive or non-exclusive basis, or on a collateral basis, and in the manner set forth in any applicable assignment document. As used herein, "Declarant" also means any third party, including any Mortgagee, who hereafter acquires Declarant's interest in the Property and/or the Additional Property at a judicial and/or non-judicial foreclosure, and/or by deed in lieu in foreclosure, all pursuant to recorded deeds of trust in existence on the date this Declaration is filed for record.

Section 1.12 "Declaration" shall mean and refer to this Villas of South Padre Fourth Restated and Amended Declaration of Covenants, Conditions, Restrictions and Easements applicable to the Property, and any amendments and supplements thereto made in accordance with its terms.

Section 1.13 "Dwelling Unit" shall mean any single family residential dwelling constructed on or within any Lot. Dwelling Unit may also include, without limitation, single family attached dwellings (duplexes), such as attached or zero lot line townhomes. The Dwelling Units on the Additional Property shall consist of single family residential dwellings, single family attached dwellings, such as attached or zero lot line townhomes and/or condominium units.

Section 1.14 "Lot" or "Lots" shall mean and refer to any plot of land intended as a site for a Dwelling Unit shown upon the Plat or the Master Site Plan. Upon construction of a Dwelling Unit, the term "Lot," as used herein, shall include the Dwelling Unit thereon. Notwithstanding the foregoing, neither the Additional Property, nor any portion thereof, shall be considered a "Lot" for the purposes hereof, unless the Additional Property is developed as a Residential Project and not as a Condominium Project.

Section 1.15 "Member" shall mean and refer to those persons entitled to Class "A" or "B" membership in the Association, as provided in this Declaration, the Articles and the Bylaws.

Section 1.16 "Mortgagee" shall mean and refer to any holder of a first mortgage encumbering all or a portion of the Property, the Additional Property, or a Lot, or a Dwelling Unit (as to the Condominium Project, as applicable) as security for the performance of an obligation.

Section 1.17 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot, and, as to the Additional Property, but only for the limited purposes described herein, the record owner, whether one or more persons or entities, of fee simple title to, as applicable, any Lot (or Block) or any Dwelling Unit constructed on or within the Additional Property, excluding those having such interest in a Lot merely as security for the performance of an obligation.

Section 1.18 "Plat" shall mean the recorded plat or replat of any subdivision of the Property or the Additional Property, as further amended or replatted from time to time.

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Section 1.19 "Property" shall mean and refer to that certain real property described in EXHIBIT A, together with improvements thereon, except for such improvements the title of which are reserved by Declarant or its assignees.

Section 1.20 "Town" shall mean the Town of South Padre Island, Texas.

Section 1.21 "Utilities" shall mean water, sewer, irrigation systems, electricity, gas, and other services and suppliers of services and goods commonly considered, from time to time, as utilities; provided, however, that the inclusion within this definition of utilities shall not necessarily imply that such service will be available to the Owners.

**ARTICLE 2  
PROPERTY SUBJECT TO THIS DECLARATION**

Section 2.1 Existing Property. The real property which initially is and shall be held, transferred, sold, conveyed and occupied subject to the terms and conditions of this Declaration consists of the Property, including, without limitation, the Common Property.

Section 2.2 Additional Property.

(a) Additional Property. Declarant and Playa San Pablo, Ltd. has, as of the effective date hereof, subjected the Additional Property to this Declaration; and it shall, at its expense, cause the construction of all proposed improvements thereon, including, without limitation, all necessary roads providing ingress and egress to any Lot or Dwelling Unit contained within the Additional Property.

(b) Dwelling Units. Dwelling Units or improvements constructed on the Additional Property, or portions thereof, shall consist of residential dwellings (such as condominium units.) Such Dwelling Units may be the subject of documents or agreements establishing a condominium regime, a separate owners association (and related articles of incorporation and bylaws) for the governance thereof, and additional or separate assessments, declarations, covenants, conditions, restrictions and easements, none of which shall inure to the benefit of, or be a burden upon, the Property or the Owners of any of the Lots located within the Property. Notwithstanding the foregoing, if the Additional Property is developed as the Condominium Project, both the Association and the governing body for the Condominium Project shall use their best efforts to enforce any applicable use restrictions contained in this Declaration and in any documents created to establish and govern the Condominium Project.

Section 2.3 General Effect of Subjection. The Owners of any Lots or Dwelling Units located within the Additional Property shall be Class A Members and shall be entitled to the vote as provided in Article 4.

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ARTICLE 3  
PROPERTY RIGHTS

Section 3.1 Owners' Common Property Easements. Subject to the terms and conditions of this Declaration, the rules and regulations of the Association, and any prior use rights granted by Declarant in the Common Property, but, except as limited in Section 3.2 below with regard to Owners of Dwelling Units within the Condominium Project, as applicable, every Owner, their successors and assigns, and their families, and every guest, tenant, and invitee of each such Owner, is hereby granted a nonexclusive right and easement of ingress and egress and enjoyment in and to the Common Property, subject to the following provisions:

(a) The right of the Association to establish and publish rules and regulations governing the use of the Common Property and affecting the welfare of the Members;

(b) The right of the Association to suspend the right of use of the Common Property, except the Common Roads, and the voting rights of an Owner, for any period during which any Assessment against such Owner's Lot or Dwelling Unit (as to the Additional Property, if developed as the Condominium Project) remains unpaid; and for a period not to exceed sixty (60) days, for any infraction of published rules and regulations pertaining to the use of the Common Property;

(c) The right of the Association, without further consent from the Owners or their Mortgagees, to dedicate, transfer or grant easements over all or any part of the Common Property to any public agency, authority or utility company for such purposes and subject to the conditions as may be agreed by the Association, and the right of the Association to acquire, extend, terminate or abandon any such easements;

(d) The right of the Association to authorize other persons to enter upon or use the Common Property for uses not inconsistent with the Owners' rights therein.

Section 3.2 Owners' Common Road Easements.

(a) In General. It is specifically acknowledged that the Common Roads, which constitute a part of the Common Property, have been conveyed by Declarant to the Association. Each Owner, such Owner's successors and assigns (but only such assigns as succeed to all of such Owner's interest in the Property or any portion of the Additional Property), Mortgagees, domestic help, delivery, pick-up and fire protection services, police and other authorities of the law, United States mail carriers, representatives of Utilities serving the Property or the Additional Property, and such other persons as the Association shall designate, are hereby granted a non-exclusive easement for ingress and egress over the Common Roads. Notwithstanding the foregoing, if the Additional Property is developed into the Condominium Project, the Owners of Dwelling Units within the Additional Property will not be allowed to use the Common Property, other than the utilization of Hacienda Boulevard, Beach Drive and the "dune-walkover" for access to the beach pursuant to the provisions of Section 10.10 hereof.

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(b) Denial of Use. The Association shall have the unrestricted and absolute right to deny ingress to any person who, in the opinion of the Association, may create or participate in any disturbance or nuisance on any part of the Property or the Additional Property; provided, however, the Association shall not deny an Owner or Mortgagee the right of ingress and egress to any portion of the Property or the Additional Property owned by such Owner or mortgaged in favor of such Mortgagee. The Association shall have (i) the right to adopt rules and regulations pertaining to the use of the Common Roads, (ii) the right, but no obligation, from time to time, to control and regulate all types of traffic on the Common Roads, including the installation of gates, gate houses and gate systems, if Declarant or the Association so elects, (iii) the right, but no obligation, to control and prohibit parking on all or any part of the Common Roads, and (iv) the right, but no obligation, to remove or require the removal of any fence, hedge, shrub, bush, tree or other thing, natural or artificial, which is placed or located on the Property or the Additional Property, if the location of the same will, in the reasonable opinion of the Association, obstruct the vision of a motorist.

(c) Dedication to Public. The Association reserves the sole and absolute right at any time to dedicate all or any portion of the Common Roads for public use if required to do so by any governmental authority.

Section 3.3 Conveyance of Common Property, Assumption of Certain Related Obligations. Declarant has previously conveyed the Common Property (including the Common Roads, which have, however, been conveyed as provided above) to the Association. As of the date of the conveyance of the Common Property to the Association, the Association has assumed all obligations of maintenance of the Common Property, except for the unpaved portions of the road right-of-ways abutting a Lot.

Section 3.4 Liens or Encumbrances with Respect to Common Property. Subject to the provisions of Section 8.3 hereof, the Association may not place a lien or encumbrance upon, or allow a lien or encumbrance to be placed upon, the Common Property, unless approved by a vote of a two-thirds (2/3) majority of the Board of Directors.

Section 3.5 Effect of Declaration. All easements herein described are easements running with the Property and the Additional Property (but as limited, pursuant to Section 3.2 (a) above, if the Additional Property is developed into the Condominium Project) and shall at all times inure to the benefit and be binding upon the Owners and their respective grantees, Mortgagees, legal representatives, personal representatives, heirs, successors and assigns. Reference in any deed, mortgage, deed of trust, or any other recorded documents to the easements, conditions, restrictions and covenants described in this Article 3 or to this Declaration shall be sufficient to create and reserve such easements, conditions, restrictions and covenants to the respective grantees, Mortgagees (or their trustees) as fully and completely as if those easements, conditions, restrictions and covenants were fully related and set forth in their entirety in said documents. Any Owner may delegate his right of use and enjoyment of the Common Property to the members of his family, his guests, tenants, or invitees who may from time to time occupy a Lot or a Dwelling Unit.

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ARTICLE 4  
OWNER'S ASSOCIATION:  
MEMBERSHIP AND VOTING RIGHTS

Section 4.1 Establishment of Association. The formal establishment of the Association has been previously accomplished by the filing of the Articles with the Secretary of State for the State of Texas and the subsequent issuance by the Secretary of State of the Certificate of Incorporation of the Association.

Section 4.2 Adoption of By-Laws. By-Laws for the Association have been previously established and adopted by the Board of Directors.

Section 4.3 Qualification for Membership. Every Owner (and Declarant for so long as Declarant owns any portion of the Property), shall be mandatory Members of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Dwelling Unit (including the Additional Property).

Section 4.4 Membership Voting.

(a) Members shall be and are the Owners (including the Declarant for as long as Declarant owns any portion of the Property). Members owning a Lot shall be and are entitled to one (1) vote for each Lot owned; provided, however, that in the event the Additional Property is developed into the Condominium Project, the Members owning a Dwelling Unit therein shall be and are entitled to one (1) vote for each such Dwelling Unit owned not to exceed, however, a total of sixteen (16) votes for all said Dwelling Units constructed within the Additional Property. When more than one person holds an interest in any Lot or Dwelling Unit, all such persons shall be Members; however, the vote for such Lot shall be exercised as they, among themselves determine, but in no event shall more than one vote be cast with respect to any Lot or Dwelling Unit. If the Additional Property is developed into the Condominium Project and contains more than sixteen (16) Dwelling Units, the Additional Property shall nevertheless still have a total of sixteen (16) votes and, in such instance, all such Owners shall be Members, however, the votes for the Dwelling Units located within the Additional Property shall be exercised as such Owners, among themselves determine, but in no event shall more than sixteen (16) votes be cast with respect to such Dwelling Units. Notwithstanding the foregoing, Class A Members owning a Dwelling Unit in the Condominium Project will not be allowed to vote on any matters whatsoever, whether with regard to the Association or the Property, except matters which (i) affect the beach access easement granted pursuant to Section 10.10 hereof, (ii) affect the amount of the limited Assessments to be paid by such Class A Members pursuant to Article V hereof, or (iii) affect the Additional Property and its uses and rights.

(b) Suspension. All voting rights of an Owner shall be suspended during any period in which such Owner is delinquent in the payment of any Assessment duly established pursuant to this Declaration or is otherwise in default hereunder or under the By-Laws or under any rules and regulations established by

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the Association pursuant hereto, and such suspension shall apply to the proxy authority of the voting representative(s) of such Owner, if any.

ARTICLE 5  
ASSESSMENTS

Section 5.1 Purpose of Assessments. The Assessments levied by the Association shall be used to promote the aesthetics, recreation and limited security of the Owners and residents of the Property, and, (as limited herein) the Owners and residents of Lots or Dwelling Units constructed within the Additional Property. The Assessments applicable to the Property shall be for the improvement, maintenance and repair of the Common Property including, without limitation, the Common Roads, for the operation, management and administration of the Association, for the establishment of a maintenance, repair and improvement reserve account, for payment of taxes and insurance on all Common Property, and for such other purposes as are set forth or permitted in this Declaration, the Articles or the Bylaws. The only Assessments applicable to the Owners of Dwelling Units within the Additional Property shall be those levied only for their proportionate share of those expenses related to those matters set forth in (i) Section 5.4(b) related to Emergency Assessments, (ii) Section 5.6 related to Lot Assessments, and Section 5.3 related to Annual Assessments for which assessments against the Owners of Dwelling Units within the Additional Property are hereby restricted to only those costs related to the maintenance of that portion of Hacienda Boulevard extending along Hacienda Boulevard east of Padre Boulevard and west of the existing gatehouse from Padre Boulevard to the Gatehouse together with the those costs related to the maintenance and insurance, if obtainable, of the dune walk-over and the sea wall.

Section 5.2 Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot owned within the Property, and, except as otherwise set forth below, each Lot or Dwelling Unit owned within the Additional Property hereby covenants, and each Owner of any Lot or Dwelling Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments, charges or reserves, as set forth, without limitation, in Sections 5.3, 5.5 and 5.12 hereof (collectively, "Annual Assessments"), (ii) special assessments, as set forth in Section 5.4 ("Special Assessments"), and (iii) the assessments established pursuant to Section 5.6 ("Lot Assessments"), such assessments to be established and collected as hereinafter provided. The Annual Assessments, Special Assessments and Lot Assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the Lot, or as applicable, the Dwelling Unit and shall be a continuing lien upon the Lot and, as applicable, Dwelling Unit against which each such Assessment is made. Each said Assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner (or, if more than one Owner, the joint and several obligation of each of the Owners) of such Lot or, as applicable, Dwelling Unit, at the time when the Assessment became due. The personal obligation for delinquent Assessments shall be the joint obligation of the grantor and grantee under a deed, without affecting the grantee's right to recover the grantor's share of any such delinquent Assessments from the grantor. Notwithstanding the foregoing, neither the Dwelling Units owned within the Additional Property (if the Additional Property is developed as the Condominium

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Project), nor the Owners thereof, shall be subject to any obligation to pay Annual Assessments, Special Assessments or Lot Assessments, except as set forth in Sections 5.4(b) and 5.6, and except for a portion of the Annual Assessments relating to the cost to maintain Hacienda Boulevard and Beach Drive.

Section 5.3 Annual Assessments.

(a) Initial Annual Assessment; Maximum Annual Assessment Increases. Each Lot within the Property is hereby subject to an initial Annual Assessment to be not less than \$3,000.00. Subject to the restrictions contained in Section 5.1 related to the amounts and type of assessments which can be levied against the Owners of Dwelling Units within the Additional Property, each Dwelling Unit within the Additional Property will be subject to an initial Annual Assessment of \$200.00. The Lot upon which the Condominium Project is constructed will not be assessed as a residential Lot. Therefore, any Annual Assessment imposed upon an Owner of a Dwelling Unit within the Additional Property for those items specified in Section 5.1 above shall be proportional to the aggregate of the total number of Dwelling Units within the Additional Property plus the total number of Lots/Dwelling Units within the Property. The Annual Assessment against a Lot or Dwelling Unit may not be increased each year by more than ten percent (10%) above the Annual Assessment for the previous year unless approved by a vote of a two-thirds (2/3) majority of the Board of Directors.

(b) Date of Commencement of Annual Assessments, Due Dates. The Annual Assessments for a Lot shall commence upon the purchase of a Lot by an Owner. In the event the Additional Property is developed as the Condominium Project, Annual Assessments for Dwelling Units located thereon shall commence on the first to occur of the date upon which such Dwelling Units within the Additional Property are substantially complete. The Board of Directors shall fix the amount of the Annual Assessment against each Lot or Dwelling Unit at least thirty (30) days in advance of each Assessment year, and shall determine whether such Annual Assessment shall be payable monthly, quarterly or annually. Written notice of the Annual Assessment shall be sent to every Owner subject thereto.

Section 5.4 Special Assessments.

(a) In General. In addition to the Annual Assessments authorized above, the Association may levy, in any Assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, addition, reconstruction, repair or replacement of a capital improvement upon the Common Property, including fixtures and personal property related thereto (but, any sums reserved therefore pursuant to Section 5.5 shall be utilized to, as much as possible, defray the costs of same); provided, that any such Special Assessment shall have the approval of a two-thirds (2/3) majority vote of the Board of Directors unless the Special Assessment is required due to the inadequacy of the insurance proceeds or condemnation awards to cover the cost of a repair to the Common Property (see Article 9), wherein no approval shall be required.

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(b) Emergency. The Association may also levy a Special Assessment at any time by a majority vote of the Board of Directors, for the purpose of defraying, in whole or in part, the cost of any extraordinary or emergency matters that affect the Common Property or Members, including, after depletion of any applicable reserves, any unexpected expenditures not provided by the Association's applicable annual budget. Any such Special Assessments shall be due and payable at the time and in the manner specified by the Board of Directors. If the Additional Property is developed into the Condominium Project, Owners of Dwelling Units therein shall only be obligated to pay, in the aggregate, those special assessment items (to the extent that such items are not reimbursable by existing insurance policies) consisting of (i) forty six percent (46%) of any Special Assessment levied to make emergency and other repairs to the dune crossover (as depicted on the Master Plan) as a result of storm, natural disaster or other casualty loss, (ii) thirty four percent (34%) of any Special Assessments levied to make emergency or other repairs to the seawall (as depicted on the Master Plan) as a result of storm, natural disaster or other casualty loss, and (iii) their "prorata share" of any Special Assessment levied to make emergency and other repairs to the perimeter wall as a result of storm, natural disaster or other casualty loss. For the purposes hereof, the term "proportionate" shall mean the payment of the amount of such Special Assessment in the proportion that the lineal footage of the perimeter wall adjacent to and surrounding the Additional Property bears to the lineal footage of the perimeter wall adjacent to the Property.

Section 5.5 Reserves. The Board of Directors shall, at its election, establish and maintain an adequate reserve fund for the periodic maintenance, repair and improvements to the Common Property, including the Common Roads, which shall be maintained out of the Annual Assessments. This reserve fund shall constitute a portion of the annual budget. In addition, the Board of Directors may establish reserve funds from the Annual Assessments to be held in reserve for:

- (a) major rehabilitation or repairs, or capital improvements; provided, such reserve shall initially be in an amount equal to five percent (5%) of the aggregate Annual Assessments collected by the Association for the Assessment year immediately preceding;
- (b) emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss, including reserves necessary to defray insurance deductibles with respect to same; and
- (c) the initial cost, if any, of new services to be performed by the Association.

Section 5.6 Lot Assessments. Except as to be maintained by the Association pursuant to the provisions of Section 11.4 hereof, in the event that an Owner fails to maintain its Lot including, without limitation, landscaping, mowing of vegetation on the unpaved right-of-way in front of the Owner's Lot, or the improvements thereupon, as required pursuant to the provisions of Section 11.1 hereof, or damages the Common Property (including damages caused by an Owner's family, tenants, guests or invitees), or otherwise fails to comply with or is in default with respect to the provisions of Sections 6.4, 9.3, 11.2, 11.4, or 12.1 hereof, the Association shall give written notice specifying such failure to the Owner and if the Owner fails to correct such unperformed maintenance within ten (10) days from the Association's written

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notice, the Association may perform such maintenance or cure such default, and the cost of such shall constitute a Lot Assessment for which a claim of lien may be filed and enforced. Notwithstanding the foregoing, in the event the Additional Property is developed into the Condominium Project, then the Owner of a Dwelling Unit shall be subject to an Assessment under this section against such Owner's Dwelling Unit only in the event of an occurrence described in Section 9.3 hereof.

Section 5.7 Uniform Rate of Assessment. Subject to the restrictions contained in Section 5.1 related to the amounts and type of limited assessments which can be levied against the Owners of Dwelling Units within the Additional Property, Annual Assessments (including reserves established pursuant to Section 5.5 hereof) must be fixed at a uniform rate for all similar Lots (or Dwelling Units as to the Additional Property), whether or not a Lot has a Dwelling Unit, and any increase must be applied uniformly to all similar Lots or Dwelling Units (as to the Additional Property). Special Assessments must be fixed at a uniform rate for all similar Lots (or Dwelling Units as to the Additional Property), whether or not a Lot has a Dwelling Unit, and any increase must be applied uniformly to all similar Lots or Dwelling Units (as to the Additional Property).

~~Section 5.8 Effect of Nonpayment of Assessments, Remedies of the Association. The Association may bring an action at law against the Owner or Owners personally obligated to pay any Assessments, if such Assessments are not paid within thirty (30) days after the due date of same. The Association may, in addition to any other remedies it may have pursuant to Section 12.1 hereof, record a claim of lien of record in the official records of Cameron County, Texas and thereafter, by judicial and/or non-judicial proceedings, foreclose the claim of lien against the Lot or Dwelling Unit (as to the Additional Property) of any such Owner or Owners. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Property or abandonment of its Lot or, as applicable, Dwelling Unit. The Association has the authority to set the amount of and/or accrue and/or apply interest and/or late payment charges for any Owner's failure to pay an Assessment by the due date; provided, however, that such interest or late payment charges shall in any event only be charged if an Assessment is not paid within thirty (30) days of the due date thereof.~~

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Section 5.9 Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be secondary, subordinate and inferior to the lien of any first mortgage held by a Mortgagee, and, as a condition precedent to any proceedings to enforce such lien which there is an outstanding, valid, and subsisting first mortgage lien, the Association shall give such Mortgagee sixty (60) days written notice of such proposed action, such notice, which shall be sent to such Mortgagee by prepaid U.S. registered mail, containing the statement of the delinquent Assessments upon which the proposed action is based. Upon the request of any such Mortgagee, the Association shall acknowledge in writing its obligation to give the foregoing notice with respect to the Lot or Dwelling Unit (as to the Additional Property) covered by such first mortgage. Sale or transfer of any Lot or Dwelling Unit shall not affect the Assessment lien; provided, the sale or transfer of any Lot or Dwelling Unit (as to the Additional Property) pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or Dwelling Unit

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(as to the Additional Property) from liability for any Assessment thereafter becoming due or from the lien thereof. Any such delinquent Assessments which were extinguished pursuant to the foregoing may be reallocated and assessed against all of the Lots or Dwelling Units (as to the Additional Property) as part of the annual budget.

Section 5.10 Exempt Property. Notwithstanding anything herein to the contrary, the following portions of the Property shall be exempt from the Assessments, charges and liens created herein: (a) those portions of the Property dedicated to, and accepted by, a local public authority or Utility company and serving a public use; and (b) those portions of the Property owned by Declarant which have never had a Dwelling Unit or other improvements constructed thereon.

Section 5.11 Failure to Adopt or Give Notice of Budget. The failure or delay of the Board of Directors to prepare or adopt the annual budget for any fiscal year or to give notice thereof shall not constitute a waiver or release in any manner of the Owner's obligation to pay any Assessment as herein provided, whenever the same shall be determined. In the absence of an annual budget or notice of change, each Owner shall continue to pay the Assessments as established for the previous Assessment year.

Section 5.12 Real Estate Taxes. In the event the Common Property is taxed separately from Lots decded to Owners, the Association shall include such taxes as part of the Annual Assessment. In the event the Common Property is taxed as a component of the value of the Lot owned by each Owner, it shall be the obligation of each Owner to promptly pay such taxes.

Section 5.13 Advances by Declarant. INTENTIONALLY OMITTED.

Section 5.14 Association Certificate. The Association shall, upon request, furnish a certificate by an officer of the Association setting forth whether the Assessments for the specified Lot or Dwelling Unit (as to the Additional Property) have been paid. A properly executed certificate of the Association as to the status of Assessments on a Lot or Dwelling Unit (as to the Additional Property) is binding upon the Association as of the date of its issuance.

ARTICLE 6  
ARCHITECTURAL CONTROL

*Added 5.15, 5.16, 5.17,  
5.18, 5.19  
on 11/3/12*

Section 6.1 General Provisions. No construction, modification, alteration or improvement of any nature whatsoever, including, without limitation, Dwelling Units ("Proposed Improvements"), except for interior alterations not affecting the external structure or appearance of any Dwelling Unit or other structure, shall be undertaken on or adjacent to any Lot unless and until the plans and specifications therefor, showing the nature, kind, shape, height, materials, and location of the same, shall have been submitted to and approved in writing by the ARC.

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Section 6.2 Composition of the ARC. The architectural review and control functions set forth herein shall be administered and performed by the ARC, which shall consist of at least three (3) members who need not be Members of the Association. Members of the ARC may be the Board of Directors or may be a committee appointed by the Board of Directors. A majority of the ARC shall constitute a quorum to transact business at any meeting of the ARC, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the ARC. Any vacancy occurring on the ARC because of death, resignation, or other termination of service of any member thereof shall be filled by the Board of Directors.

Section 6.3 Procedure for Approval of Plans. Plans and specifications for any Proposed Improvements shall be submitted to the ARC at least twenty-one (21) days prior to the commencement of any such construction, modification or alteration with regard thereto. The plans and specifications with regard to such Proposed Improvements shall include, without limitation, a site plan showing the entire Lot with the Proposed Improvements, floor plans and elevations of all faces of the structure, and a description of all exterior construction materials. Copies of the above-described plans and specifications shall be retained by the ARC. The ARC shall review the plans and specifications and notify Owner in writing of its approval or disapproval of same. If the ARC fails to approve or disapprove said plans and specifications within fourteen (14) days after the plans and specifications have been submitted to it, the plans and specifications will be deemed to have been approved by the ARC. Any disapproval shall set forth the elements disapproved and the reason or reasons therefor. The judgment of the ARC in this respect, in the exercise of its sole and absolute discretion, shall be final and conclusive, and the Owner shall promptly correct the plans and specifications (if disapproved) and resubmit them for approval (using the same approval process as set forth above). No construction of Proposed Improvements shall commence until approval of said plans and specifications by the ARC has been obtained. The ARC may approve any deviation from these covenants and restrictions as the ARC, in its sole and absolute discretion, deems consistent with the purpose hereof. Any Proposed Improvements shall be deemed to have been constructed in compliance with the plans and specifications unless, within sixty (60) days after completion of construction of same, the ARC places of record an instrument setting forth its disapproval. Any disapproval shall set forth the elements disapproved and the reason or reasons thereof. Approval by the ARC of the plans and specifications or its determination that the completed Proposed Improvements have been constructed in accordance with the plans and specifications therefor shall be deemed to be an acknowledgment by the ARC that such are in accordance with these covenants and restrictions, and such acknowledgment shall be binding against the Association, the Owners of the Lots and the Property.

Section 6.4 Construction Period. Construction of the Dwelling Unit on a Lot must be commenced within two (2) years after such Lot is purchased by the Owner; provided, that when ninety percent (90%) of the Lots have been conveyed by Declarant to Owners other than Declarant, the construction of any such Dwelling Unit must be commenced within eighteen (18) months after any Lot is purchased by the Owner. Additionally, construction of the Proposed Improvements must be commenced within six (6) months after an Owner has obtained approval of its plans and specifications therefor pursuant to the provisions of Section 6.3 hereof, and once commenced, must be completed within eighteen (18) months thereafter, except where

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such completion is impossible due to strikes, fires, natural emergencies, natural disasters or other causes beyond the control of Owner or its contractor, or unless otherwise waived in writing by the ARC. In the event an Owner fails to comply with the foregoing construction obligations, the Association shall have the option, in its sole discretion, to repurchase the Lot of such Owner on thirty (30) days' prior written notice for a purchase price equal to the original purchase price paid by such Owner for said Lot, less unpaid taxes and Assessments with respect thereto. During construction of any Proposed Improvements, the applicable Owner shall be required to maintain its Lot in a clean condition, providing for trash and rubbish receptacles and disposal. Construction debris shall not be permitted upon any Lot. The Association or the ARC may, at their option, establish reasonable hours, together with rules and regulations, for construction activities so as to minimize disturbance to Owners of land adjacent to the Lot upon which Proposed Improvements are under construction; provided, however, until changed or modified by the Association, all construction activities must occur between 7:00 a.m. and thirty (30) minutes prior to sunset, Monday through Friday. Any damage caused by construction to any adjacent Lot or the Common Property is the responsibility of the Owner that is undertaking the construction of the Proposed Improvements (and each Owner indemnifies the Association with respect to same), and the Lot under construction may be subjected to a Lot Assessment for the payment of the costs incurred to correct such damage; provided, as additional security for the obligations of each Owner set forth herein, each Owner shall, prior to commencement of construction of any such Proposed Improvements, cause its contractor(s) to furnish to the Association a payment bond in the amount of \$5,000.00, and otherwise in form and substance reasonably acceptable to the Association (or in lieu thereof, said Owner may deliver to the Association a \$5,000.00 cash deposit).

Section 6.5 Limitations. Nothing shall be erected, constructed, planted or otherwise placed in such a position (subsequent to the initial construction of improvements on the Property by Declarant) so as to create a hazard or block the vision of motorists upon any of the Common Roads which are part of, adjacent to, or near the Property.

Section 6.6 Dwelling Units on Additional Property. Notwithstanding anything contained herein to the contrary, the provisions of this Article 6 shall not be applicable to the Additional Property or the Dwelling Units to be constructed on the Additional Property.

## ARTICLE 7

### USE RESTRICTIONS AND MAINTENANCE OBLIGATIONS FOR LOTS

In order to provide for congenial occupancy of the Property and the Additional Property and for the protection of the value of the Lots and the Dwelling Units (as to the Additional Property, if developed as the Condominium Project), the use of the Lots and, in certain instances, the Dwelling Units (as to the Additional Property, if developed as the Condominium Project) shall be in accordance with the following restrictions and conditions so long as this Declaration is in effect:

Section 7.1 Residential Uses. Lots shall be used for single family residential living units or single family attached dwellings, such as attached or zero lot line townhomes (and, as to the Additional Property,

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single family residential units, single family attached residential dwellings, such as attached or zero lot line townhomes and/or condominium units) and for no other purpose, and no business or commercial building may be erected on any Lot or the Additional Property, and no business may be conducted on any part of any Lot or any Dwelling Unit to be constructed on the Additional Property. No trailer, tent, shack, barn, temporary building, out building or guest house visible from the adjacent Property or from public thoroughfares shall be erected on any of the Lots or any of the Dwelling Units to be constructed on the Additional Property, if developed as the Condominium Project, without the approval of the ARC. Only new Dwelling Units shall be permitted, it being the intent of this covenant to prohibit the moving of any existing building onto a Lot or any portion of the Additional Property and remodeling or converting same into a Dwelling Unit.

Section 7.2 Building Standards. Each Dwelling Unit on a Lot shall contain (i) no less than 2,000 square feet of air conditioned area, exclusive of all porches, garages, decks, balconies, or breeze ways attached to the main dwelling, and (ii) no more than two (2) stories; provided, that with respect to Lots 21, 23, 28A, 28B, 30A, 30B, 31, 32, 33A, 33B, 34A, 34B, 35A, 35B, 42, 42A, 42B, 43, 43A, 43B, 44, 44A, 44B, 45A and 45B, each Dwelling Unit shall contain (a) no less than 1,500 square feet of air conditioned area, exclusive of porches, garages, decks, balconies, or breeze ways attached to the main dwelling, and (b) no more than three (3) stories; and, provided also, that with respect to Lots 13, 21, 23, 31, 32, 42, 43 and 44, each Dwelling Unit shall contain not less than three (3) stories, so long as the ARC has determined, in its reasonable discretion, that the construction of any such three (3) story Dwelling Unit will not interfere with any views from any other adjacent Dwelling Unit. Except for any Dwelling Unit on Lots 15, 27A and 27B (which shall not have a flat roof unless otherwise consented to in writing by the Owner of Lot 17), no more than twenty-five percent (25%) of the roof area of any Dwelling Unit may be flat and no more than twenty-five percent (25%) of any such Dwelling Unit will be enclosed with living quarters. Notwithstanding the foregoing, and with respect to Lot 11, and for the benefit of Lot 13, any Dwelling Unit(s) constructed on Lot 11, so long as constructed at least thirty-five (35) feet from the boundary line between Lot 11 and Lot 13, may contain up to an aggregate of 5,600 square feet of air conditioned area, exclusive of all porches, garages, decks, balconies, or breeze ways attached to such Dwelling Unit(s), but may be no more than two (2) stories; provided, and so long as such Dwelling Unit(s) is constructed at least thirty-five (35) feet from such boundary line, there may also be constructed within such thirty-five (35) foot "set-back" area a detached garage with guest/living quarters containing no more than 1,500 square feet and no more than two (2) stories (so long as such detached garage with guest/living quarters is at least fifteen (15) feet from the boundary line between Lots 11 and 13).

Section 7.3 Lot Standards.

- (a) The minimum front yard setback for all Lots shall be twenty-five (25) feet.
- (b) The minimum rear yard setback for all Lots shall be twenty (20) feet, except there shall be no minimum rear yard setback with regard to Lots 1 through 11.

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(c) The minimum side yard setback for all Lots shall be five (5) feet, measured at the building line; provided, that the minimum side yard setback adjacent to a Common Road shall be ten (10) feet.

(d) The minimum side yard setback (north side) for Lots 1, 3, 7 and 9 shall be seven (7) feet, measured from the building line.

(e) The minimum side yard setback (south side) for Lots 2, 4, 8 and 10 shall be seven (7) feet, measured from the building line.

Section 7.4 Building Materials.

(a) Exterior wall construction shall consist of not less than one hundred percent (100%) masonry or stucco construction of the entire structure of each Dwelling Unit. All chimneys that originate on the front and sides of any Dwelling Unit will be one hundred percent (100%) masonry or stucco. Any chimneys that originate behind the ridge line of any Dwelling Unit can be products other than masonry or stucco, subject to the ARC's approval of such products and the location of the chimney(s).

(b) All roofing materials shall consist of concrete or clay tiles; provided, the roofing materials for each Dwelling Unit on Lots 1 through 44, 27A and 27B, must consist of "S" or "W" barreled roofing; and each Dwelling Unit on Lots 28A, 28B, 30A, 30B, 33A, 33B, 34A, 34B, 35A, 35B, 42A, 42B, 43A, 43B, 44A, 44B, 45A and 45B must have a slate tile roof.

Section 7.5 Landscaping and Fences.

(a) Any landscaping on a Lot shall be completed within thirty (30) days after the Dwelling Unit is finished.

(b) All fences on any Lot shall be of masonry or aluminum, or a combination thereof. There shall be no wire or chain link fences on any Lot. No fence on any Lot shall extend toward the front Property line, past the front building line. All such fences shall be maintained in an attractive manner. All fences on any Lot shall be a minimum of six (6) feet in height, but may not shall exceed seven (7) feet in height. Notwithstanding the foregoing, with respect to Lots 1 through 11, any fencing within the applicable Reserve Easement (as hereinafter defined) shall be a maximum of four (4) feet in height and constructed primarily of aluminum.

Section 7.6 Antennas and Other Devices. No exterior radio or television antenna, satellite dish or other receiving or transmitting device, antenna or aerial, windmill or similar exterior structure shall be placed or erected, or affixed in any manner to the exterior of any improvement on any Lot or Dwelling Unit; provided, however, satellite receptor dishes shall be allowed, subject to approval by the ARC.

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Section 7.7 Clothes Drying Area. No portion of any Lot or Dwelling Unit shall be used as a drying or hanging area for laundry of any kind unless screened from the view of neighboring Owners and from a Common Road.

Section 7.8 Nuisances. Nothing shall be done or maintained on any Lot or Dwelling Unit (as to the Additional Property) or Common Property which may be or become an annoyance or nuisance to any other Lot or Dwelling Unit in the vicinity thereof or to its occupants, or to the Common Property. In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to the Board of Directors and the written decision of the Board of Directors shall be dispositive of any such dispute or question.

Section 7.9 Signs. No signs whatsoever (movable or affixed) including, but not limited to, commercial, political, and similar signs, which are visible from adjacent property or from public thoroughfares shall be erected or maintained on any Lot or Dwelling Unit without the approval of the ARC. The provisions of this Section 7.9 shall not, however, prevent Declarant from commencing, erecting, or maintaining structures or signs of any content or size on Lots or Dwelling Units (as to the Additional Property, if developed as the Condominium Project) owned by it when Declarant, in its sole discretion, deems it necessary or convenient to the development, sale, operation, or other disposition of the Lots or Dwelling Units.

~~Section 7.10 Energy Conservation. Solar energy and other energy conservation devices are not prohibited or discouraged, but the design and appearances of such devices will be scrutinized and controlled to assure consistency with neighborhood aesthetics. Requests for approval of installation of any type of solar energy or other energy conservation devices (or equipment) shall be submitted to the ARC and shall be constructed only as approved by the ARC.~~

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Section 7.11 Window Coverings. No reflective window coverings or treatments shall be permitted with respect to any Dwelling Unit on any Lot or any Dwelling Unit. All window coverings shall have linings or other treatment so that the exterior appearance of the window appears neutral from Common Roads, and further, no unsightly objects shall be placed in the windows of any such Dwelling Unit so as to be visible from Common Roads. The ARC, at its discretion, may control or prohibit other window coverings and treatments not reasonably compatible with aesthetic standards set forth herein.

Section 7.12 Pets and Animals. No animals, except common domestic household pets, within the ordinary meaning and interpretation of such words, may be kept, maintained or cared for in any Lot or Dwelling Unit or within the Property or the Additional Property. No pets shall be allowed to make an unreasonable amount of noise or to become a nuisance, and no pets will be allowed on the Property or the Additional Property, other than on the Lot or Dwelling Unit of the Owner of such pets, unless confined to a leash. Upon written request of any Owner, the Board of Directors may conclusively determine at its sole discretion, in accordance with its rules, whether an animal is a domestic household pet, whether such animal is making an unreasonable amount of noise, whether an animal is being allowed to run at large, or whether

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an animal is a nuisance. The decision of the Board of Directors in such matters is conclusive and shall be enforced as other restrictions contained herein. No pet may be maintained, kept, cared for or boarded for hire or remuneration on the Property or the Additional Property and no kennels for boarding or operation shall be allowed.

Section 7.13 Lawful Use. No improper, offensive or unlawful use shall be made of the Property or the Additional Property, if and when subjected to this Declaration, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed.

Section 7.14 Repair and Parking of Vehicles. No commercial or inoperative vehicle shall be parked in the street or in the driveway on any Lot except incidental to construction thereon. No vehicles shall be parked on the street overnight, but, rather, shall be parked or stored in garages with the doors closed, or parked in the driveway. In addition, automobile parking on any Lot shall be limited to a reasonable number of automobiles appropriate to the residential use of the Lot. Only automobiles bearing current license and registration tags, as required pursuant to state law, shall be permissible to be parked on any of the Property or the Additional Property, if and when subjected to this Declaration. Boats, trailers, campers and motor homes must be stored in garages; provided, a recreational vehicle may be parked on any Lot so long as it is not visible from any street or thoroughfare and or so long as it is not otherwise visible to any adjacent Lot Owners. No vehicle repair shall be performed in the driveway on any Lot unless it is of a short term duration.

Section 7.15 Burning of Construction Debris. Lot clearing debris or Lot maintenance debris shall not be burned or remain on the Lots or Common Property. Construction debris, clearing debris or pollutants shall not be buried on any Lot or the Common Property.

Section 7.16 Garbage and Trash Containers. All garbage and trash containers must be placed and maintained in accordance with the rules and regulations adopted by the Association. No garbage or trash shall be placed elsewhere and no portion of the Property or the Additional Property shall be used for dumping refuse.

Section 7.17 Window Air Conditioners. No window air conditioning unit shall be installed in any of the Dwelling Units without the prior approval of the ARC.

Section 7.18 Water Supply and Sewage. No individual well or septic tank will be permitted on any Lot without prior written consent of the ARC.

Section 7.19 Fuel Storage Tanks. No fuel or gas storage tanks shall be permitted on any Lot, except that Owner may maintain a small gas bottle or tank for gas barbecues, fireplaces and pool areas.

Section 7.20 Soliciting. No soliciting will be allowed at any time within the Property or the Additional Property, except by special permission of the Board of Directors.

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Section 7.21 Garages. All garages shall be not less than two (2) car size, and shall be fully enclosed and contain full-length doors at the entrance way thereto. No garage shall be used by anyone other than the Owner of a Lot on which the garage is situated, or his family or bonafide guests or tenants, and all garage doors shall be closed at all times except as may be necessary for entry and exits of vehicles and persons. No garage shall be constructed except as an integral part of the residence it is intended to serve. All garages can be front, side, or detached.

Section 7.22 Retaining Walls. Retaining walls which are visible from the street or thoroughfare will be constructed of concrete faced with brick or stone of the same type as that used on the Dwelling Unit, or such other materials as are approved by the ARC.

Section 7.23 Pools. All pools, including, without limitation, swimming pools, spas and jacuzzis (and screening, enclosures, housings, equipment housing and fencing associated therewith) must be approved by the ARC prior to any construction.

Section 7.24 Sprinkler Systems. All lawn and landscape sprinkler systems must be approved by the ARC prior to their installation (and the ARC highly recommends that all Owners install such sprinkler systems).

Section 7.25 Prohibition on Mobile Homes/Temporary Improvements. No mobile home, manufactured home, shack, barn, shed or other outbuilding shall be allowed on any Lot.

Section 7.26 Use Restrictions for Real Property Adjacent to the Additional Property. No building constructed on the portion of Lot 1, Block 1, The Villas Of South Padre, South Padre Island, Texas, according to the Amended Plat thereof recorded in Cabinet 1, Slot 2426-A, Map Records of Cameron County, Texas, being a Replat of Lot 1, Block 1 and Lot 1, Block 4, The Villas Of South Padre, according to the Amended Plat thereof recorded in Cabinet 1, Slot 2362-A, Map Records of Cameron County, Texas, which property is adjacent to and fronting on Padre Boulevard may (i) exceed three (3) stories in height or (ii) be used for the sale, retailing or dealing in gasoline, kerosene, benzol, naptha, or any fuel used for internal combustion engines (i.e. a gas station) or (iii) be used for the establishment and conduct of a business enterprise which derives more than 50% of its revenues from alcohol sales for on-premises consumption or (iv) be used for the establishment and conduct of a business enterprise which derives more than 60% of its revenues from the sale of T-shirts. Any trash dumpster located on this tract will be in an enclosed area, which enclosure will be of a type which will prevent the dumpster from being visible from Hacienda Blvd.

Section 7.27 Additional Use Restrictions. The Association may adopt such additional use restrictions, rules or regulations, applicable to all or any portion or portions of the Lots or Dwelling Units located within the Property, and to waive or modify application of the foregoing use restrictions with respect to any Lot located within the Property, as the Association, in its sole discretion, deem appropriate.

Section 7.28 Dwelling Units on Additional Property. Notwithstanding anything contained herein to the contrary, the provisions of Sections 7.2, 7.3, 7.4, 7.5, 7.21, 7.23 and 7.24 hereof shall not be applicable

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to the Additional Property or the Dwelling Units to be constructed on the Additional Property; provided, however, (i) no Dwelling Unit constructed on the Additional Property shall contain less than 1,300 square feet of air-conditioned area, exclusive of all porches, garages, decks, balconies or breeze ways attached thereto and (ii) there shall be no more than thirty eight (38) Dwelling Units in the aggregate constructed on the Additional Property, whether single family residential dwellings or single family attached dwellings, such as attached or zero lot line, townhomes, and/or condominium units. Additionally, if the Additional Property is developed into the Condominium Project, (a) no condominium building constructed on the Additional Property may exceed one hundred twenty (120) feet in height (measured from the top of the first floor foundation, and such high-rise may not contain more than thirty-eight (38) Dwelling Units, (b) there shall be no "time sharing" of any such condominium Dwelling Units, (c) no more than fifty percent (50%) of such condominium Dwelling Units may be rented at any one time, (d) there shall be no rentals of said condominium Dwelling Units whatsoever during the week between Christmas and New Years, University of Texas (Austin) spring break week, the week before Easter, or the three (3) days before and after July 4th, and (e) the developer thereof, whether the Declarant or a third party, shall be required (x) to construct, for the exclusive use and benefit of such Condominium Project Dwelling Units, all associated amenities, such as swimming pools, clubhouses, and the like, and (y) to construct a six (6) foot aluminum fence on the inside perimeter of the Condominium Project containing a turnstile type gate (for pedestrian use only) and (z) the vehicular entry into the Condominium Project shall be located along Hacienda Boulevard east of Padre Boulevard and west of the existing gatehouse. The owner of the Additional Property agrees that development of such property shall be in accordance with the site plan attached hereto as EXHIBIT C.

**ARTICLE 8  
RIGHTS OF MORTGAGEES**

Section 8.1 Mortgagee Notice Rights. Upon written request to the Association, identifying the name and address of a Mortgagee, such Mortgagee will be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Common Property or any Lot or Dwelling Unit (as to the Additional Property, if developed as the Condominium Project) on which there is a first mortgage held, insured or guaranteed by such Mortgagee;
- (b) Any delinquency in the payment of Assessments owed by an Owner (or any other defaults by such Owner under this Declaration, the Articles, the Bylaws, or any applicable rules or regulations) of a Lot or Dwelling Unit (as to the Additional Property, if developed as the Condominium Project) subject to a first mortgage held, insured or guaranteed by such Mortgagee, which remains uncured for a period of sixty (60) days; and
- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

Section 8.2 Mortgagee Information. The Association shall make available to Owners and Mortgagees current copies of this Declaration, the Articles, the Bylaws and the rules and regulations of the

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Association, as well as books, records and financial statements of the Association. "Available" means available for inspection, upon written request during normal business hours or under other reasonable circumstances.

ARTICLE 9  
INSURANCE, CONDEMNATION AND RECONSTRUCTION

Section 9.1 Damage to or Condemnation of Common Property. In the event that any portion of the Common Property is damaged or destroyed by casualty or natural events, or taken through condemnation proceedings or conveyance in lieu thereof, it shall be repaired or restored by the Association to substantially its condition prior to the damage or destruction, if practical and possible. Repair, reconstruction or restoration of the Common Property shall be substantially in accordance with the plans and specifications pursuant to which such portions of the Common Property were originally constructed. All insurance proceeds shall be applied to the repair, reconstruction, restoration and repair of such damage. If the insurance proceeds or condemnation award and any reserves maintained by the Association for such purpose are insufficient, the deficit shall be assessed against all Owners as a Special Assessment. If there is a surplus of insurance proceeds or condemnation award, such surplus shall become the property of the Association. With respect to any insurance proceeds or condemnation award in connection with such loss or damage to the Common Property or improvements thereon, the Declarant, for so long as Declarant owns any portion of the Property or the Additional Property, and the Association are hereby designated to represent the Owners in any proceedings, negotiations, settlements or agreements in connection with such award.

Section 9.2 Damage to or Condemnation of the Lots. In the event of damage or destruction to any portion of the improvements on a Lot or to a Dwelling Unit due to casualty, natural events, condemnation or conveyance in lieu thereof, the improvements shall be repaired or restored by the Owner of the Lot so damaged, or the developer thereof, or the Owner(s), as to the Dwelling Unit so damaged. In the event that the damage, destruction or condemnation renders the improvements or Dwelling Unit(s), as applicable, uninhabitable, or the damage is so substantial that the Owner or the developer, as applicable, determines not to rebuild the improvements on the Lot, or the Dwelling Unit(s), the developer thereof or the Owner(s) shall undertake to clear the debris and have the Lot or Dwelling Unit(s) leveled within sixty (60) days from the date of destruction or damage and shall keep the area secured to prevent any attractive nuisance or trespassing. Thereafter the Owner shall maintain the Lot in a clean and sanitary condition.

Section 9.3 Damage to Common Property Due to Owner Negligence. In the event that the Common Property is damaged as a result of the willful or negligent acts of an Owner, or such Owner's tenants, family, guests or invitees, such damage shall be repaired by the Association or its designees and the cost of repair thereof shall be a Lot Assessment against such Owner as described in Section 5.6 hereof.

Section 9.4 Insurance.

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(a) In General. The Board of Directors shall obtain and maintain an insurance policy or policies insuring the interests of the Association as hereinafter described. The policy or policies of insurance shall cover all of the Common Property (except land, landscaping, foundation, excavation and other items normally excluded from coverage), but including fixtures and building service equipment, to the extent that they serve the Common Property.

(b) Policy Coverage. The policy or policies shall afford, as a minimum, protection against the following:

(i) loss or damage by fire and other perils normally covered by the standard extended coverage endorsement;

(ii) all other perils which are customarily covered with respect to projects similar in construction, location and use, including flood insurance, if applicable, and all perils normally covered by the standard "all risk" endorsement, where such is available. If flood insurance is required, it must be in an amount equal to 100% of the current replacement cost of the improvements or the maximum coverage under the National Flood Insurance Program; and

(iii) losses covered by general liability insurance coverage covering all Common Property in the amount of at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy or policies shall include legal liability of the insurers for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Property and any legal liability that results from lawsuits related to employment contracts to which the Association is a party.

(c) Policy Limits. The hazard policy or policies shall be in an amount or amounts equal to 100% of the current replacement cost of the insured properties, exclusive of land, foundation, excavation and items normally excluded from coverage. The maximum deductible amount for such policies shall be the greater of \$10,000.00 or one percent (1%) of the policy amount; provided, that the funds to cover the deductible shall be included in the Association reserve accounts. The policy or policies shall provide that it or they may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Association. The Board of Directors may obtain such additional insurance as the Board of Directors, in its sole discretion, deem reasonable, convenient or necessary.

(d) Unavailability. In the event any of the insurance requirements contained herein become unavailable and/or prohibitively expensive, or, in the event the Mortgagees modify their insurance requirements, the Board of Directors, in its sole discretion, may determine to modify the coverages contained herein in such a manner as the Board of Directors using their business judgment determine reasonable and prudent.

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Section 9.5 Liability Insurance for Board of Directors and Members of ARC. The Association shall maintain and pay for such liability insurance for the Board of Directors and members of the ARC and committees of the Board of Directors as the Board of Directors deems appropriate.

**ARTICLE 10  
EASEMENTS**

Section 10.1 Utility Easements. Declarant hereby grants to the Association and its designees, a nonexclusive, perpetual blanket easement for the benefit of the Property and the Additional Property, upon, across, over, through and under the Property and the Additional Property, for ingress, egress, installation, replacement, repair, maintenance, use and operation of all Utility and service lines and service systems, public and private, including, but not limited to, water, sewer, drainage, irrigation systems, telephones, electricity, television cable or communication lines and systems, and police powers and services supplied by local state and federal governments.

Section 10.2. Declarant's Easement to Correct Drainage. Declarant hereby grants to the Association and its designees, a non-exclusive, perpetual blanket easement for the benefit of the Property and the Additional Property, on, over and under the ground within the Property and or the Additional Property, to maintain and correct drainage of surface waters and other erosion controls in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar actions reasonably necessary, following which the Association shall restore the affected portion of the Property and the Additional Property, to its prior condition, as nearly as practicable. The Association shall give reasonable notice of intent to take such action to all affected Owners, unless in their opinion an emergency exists which precludes such notice. The rights granted hereunder may be exercised at the sole option of the Association, but shall not be construed to obligate the Association to take any action in connection therewith.

Section 10.3. Easements for Unintentional Encroachment. Declarant hereby grants to the Association and its designees, an exclusive easement for the unintentional encroachment by any Lot upon the Common Property, or the unintentional encroachment by the Common Property upon any Lot, caused by or resulting from, construction, repair, shifting, settlement or movement of any portion of the Property, which exclusive easement shall exist at all times during the continuance of the encroachment as an easement appurtenant to the encroaching property to the extent of such encroachment. Additionally, by the recording of the acceptance of a deed conveying a Lot or an ownership interest in a Lot, the Owner to whom such Lot or interest is conveyed shall be deemed to have granted to the Owner of the applicable adjacent Lots an exclusive easement, not to exceed six inches (6"), in, to, over, under and across the applicable Lot(s) for the maintenance, repair or replacement of any fences which unintentionally encroach onto the Lot of another Owner.

Section 10.4. Landscape Maintenance Easement. Declarant hereby grants for the benefit of the Association and its designees, a non-exclusive, perpetual blanket easement for the right, privilege, and authority of the Association and its designees over, under and across the Property for the purpose, pursuant

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to Section 11.4 hereof, of providing routine lawn and landscaping maintenance for the front lawn and landscape areas of all Lots, and the unpaved portion of the right-of-way located on any Lots (the "Lawn Maintenance Easement"), together with the right of the Association for ingress and egress over the Lawn Maintenance Easement for doing anything necessary, useful, or convenient for the enjoyment of the Lawn Maintenance Easement.

Section 10.5 Entry Easement. In the event that an Owner fails to maintain those portions of its Lot required of such Owner pursuant to the provisions of Section 11.1 hereof, or in the event of the necessity of emergency repairs, entry upon the Lot by the Declarant, the Association or their designees to undertake such maintenance or emergency repairs shall not be deemed a trespass, and neither Declarant, the Association, nor their designees shall be liable for any damage so caused, unless such damage is caused by the any of said parties' willful misconduct or gross negligence. Declarant hereby grants for the benefit of the Association and its designees, a non-exclusive, perpetual blanket easement for the right, privilege and authority of the Association and its designees over, under and across all Lots (the "Entry Easement") for doing anything necessary to carry out such maintenance and emergency repairs.

Section 10.6 Drainage Easements. Easements for the installation and maintenance of Utilities are reserved as shown on the Plat. Within these easement areas, no structure, plant or material shall be placed or permitted to remain which may hinder or change the direction or flow of drainage channels or slopes within such easement areas. The easement area of each Lot, and all improvements contained therein, shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, Utility company or the Association is responsible.

Section 10.7 Temporary Completion Easement. All Lots shall be subject to easement of ingress and egress for the benefit of Declarant, its employees, subcontractors, successors and assigns, over and upon the front, side or rear yards of each of the Lots, and as may be expedient or necessary for the construction, servicing and completion of Dwelling Units and landscaping upon Lots adjacent to the Property, provided that such easement shall terminate thirty (30) days after the date the construction of a Dwelling Unit on such Lot has been completed.

Section 10.8 Perimeter Wall and Seawall Maintenance Easements. Declarant hereby grants to the Association and its designees, a non-exclusive, perpetual blanket easement over, under and across the Property for the purpose of installing, replacing, repairing and maintaining the perimeter walls and seawall depicted on the Master Site Plan.

Section 10.9 Certain Reserve Lot Easements. Declarant hereby grants for the benefit of the Owners of Lots I through II (as depicted on the Master Site Plan), respectively, an exclusive, perpetual easement ("Reserve Easement"), with respect to each such individual Lot, over, under and across that portion of the Property designated as Reserve I through II on the Master Site Plan, for the general use and enjoyment of each such Owner. As to the Reserve Easement, Declarant hereby acknowledges and agrees that neither Declarant or the Association, nor any Owner (other than the Owner owing the adjacent Lot bearing the same

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number) or Mortgagee, or their invitees, may use the portion of the Property covered by a Reserve Easement for any reason whatsoever, whether for ingress, egress or otherwise, subject, however, to the easement rights of the Association described in Sections 10.1, 10.2, 10.4, 10.5 and 10.8 hereof. Notwithstanding anything contained in this Section 10.9 to the contrary, the Owners of Lots 1 through 11 acknowledge and agree (i) that no construction or improvements of any nature whatsoever shall be undertaken with respect to that portion of the Property within the boundaries of each such Owner's Reserve Easement without the prior written consent of the ARC, and then only in accordance with the provisions of Articles 6 and 7 hereof, and (ii) that such construction and/or improvements with respect to said Reserve Easement areas is in certain instances subject to obtaining certain necessary and/or required approvals and/or permits from various applicable governmental agencies with respect to same (and that the cost of obtaining such approvals and/or permits shall be solely that of the applicable Owner). With respect to the approvals and/or permits described in (ii) of the preceding sentence of this Section 10.9, each Owner, as applicable, indemnifies and holds Declarant and the Association, and their respective officers, members, shareholders, board members, affiliates and related parties, safe and harmless from any and all cost, expense, liability or damages incurred by any of said parties and caused directly or indirectly by an Owner's failure to properly and timely obtain any such necessary and/or required approvals and/or permits.

Section 10.10 Beach Access Easement. The Association (and Declarant proforma) hereby grant, for the benefit of the Owners of Dwelling Units within the Additional Property, a non-exclusive, perpetual easement over, across and upon Hacienda Boulevard, Beach Drive and the "dune-walkover" for the purpose of pedestrian access, ingress and egress to, from and between the Dwelling Units located within the Additional Property and the beach. The foregoing beach access easement shall be deemed a covenant running with the Property for the benefit of the Additional Property.

**ARTICLE 11  
MAINTENANCE RESPONSIBILITIES**

Section 11.1 Owner/Maintenance Responsibility. Except for maintenance to be provided by the Association or its designees pursuant to the provisions of Section 11.4 hereof, each Owner shall maintain the exterior of the Dwelling Unit on its Lot, including painting, repairing, replacing and caring for roofs, gutters, down spouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. Each Owner shall further assure that no weeds, underbrush or other unsightly vegetation is permitted to grow or remain upon such Owner's Lot or the right-of-way existing between the and contained within said Lot and the paved surface of any Common Road, and no refuse piles or unsightly objects shall be allowed to be placed or suffered to remain anywhere on any Lot or the right-of-way existing between the and contained within its Lot and the paved surface of any Common Road.

Section 11.2. Enforcement of Owner Maintenance Responsibility. In the event that any Owner fails or refuses to maintain those portions of such Owners' Lot as required and in the manner set forth in Section 11.1 hereof, after written notice to Owner, the Association or its designees, pursuant to the Entry Easement, may enter upon the Lot or the right-of-way existing between Owner's Lot and the paved surface of any

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Common Road and perform any necessary maintenance, and the cost thereof shall be assessed against the Owner of the Lot as a Lot Assessment.

Section 11.3. Association Maintenance Obligations. Notwithstanding any other specific requirements set forth herein, the Association or its designees are obligated to and responsible for performing the following services to and for the benefit of all Lots and the Owners to the extent permitted by applicable law:

(a) Common Property. Maintenance of all Common Property, including roadway lighting, medians and landscaping of Common Road right-of-ways and public properties located within reasonable proximity to the Property; provided, however, that the unpaved portion of any right-of-way located on a Lot shall be maintained by the Association pursuant to the provisions of Section 11.4(a) hereof.

(b) Limited Access. Employment of access control personnel and devices, gates, such patrols, as the Association deems reasonable, and maintenance of electronic and other limited security devices as deemed appropriate from time to time by the Association, it being understood by all that only limited security is reasonably possible.

(c) Insurance. To provide liability and hazard insurance covering improvements and activities on the Common Property, as provided in Article 9 hereof.

(d) Taxes. Except as provided in Section 5.12 hereof, to pay taxes and assessments against the Common Property and upon request of an Owner or Mortgagee, to furnish evidence thereof.

(e) Administration. To provide administration, accounting and communication services as are appropriate to operate the functions of the Association; and

(f) General.

(1) To take any and all actions necessary to enforce this Declaration and the covenants and restrictions affecting the Property, and perform any of the functions or services delegated to the Association in any other covenants or restrictions applicable to the Property.

(2) To provide such other services which, in the judgment of the Board of Directors, are necessary or desirable to carry out the Association's duties under the terms of this Declaration, or which may be of general benefit to the Members, the Lots and the Property.

Section 11.4 Lot Landscaping and Maintenance.

(a) In General. In addition to the maintenance of the Common Property, the Association or its designees shall provide, or contract to provide, routine lawn landscaping maintenance for the front lawn and landscape areas of all Lots and the unpaved portion of any right of way located on any Lots, in a manner and

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with such frequency as is consistent with good property management. Such maintenance shall include lawn mowing and maintenance of (but not replacement) trees, shrubs, grass and other similar green areas lying within the Lots, but shall not include any other services unless otherwise provided herein. Each Owner shall be responsible for all lawn and landscape expenses for such Owner's particular Lot incurred by the Association with respect to the Lawn Maintenance Easement ("Lawn Maintenance Expense") as determined by the Board of Directors; provided, however, that the Lawn Maintenance Expense shall be equal for all Lots of approximate equal size, and provided further, that the Lawn Maintenance Expense shall be calculated and assessed on a nondiscriminatory basis. The Association shall assess the Lots for the Lawn Maintenance Expense as a Lot Assessment. Notwithstanding the foregoing, Owners shall maintain all other areas of the lawn and landscaping on their Lot (not otherwise to be maintained by the Association pursuant to this Section 11.4(a)) in a manner and with such frequency as is consistent with good property management.

(b) Additional Maintenance. The Association may also provide additional lawn or landscaping care or maintenance to any Lot that the Association determines, in its sole discretion, requires such additional lawn or landscaping care or maintenance and shall assess the Owner for expenses associated therewith as an additional Lawn Maintenance Expense Lot Assessment. Additionally, the Owners may upgrade and improve the quantity and quality of landscaping on their Lots, provided, that such Owners comply with the provisions of Articles 6 and 7 hereof. Any incremental cost of maintenance of any such upgraded landscaping requiring additional care may also be assessed to the Owner as an additional Lawn Maintenance Expense Lot Assessment.

ARTICLE 12  
GENERAL PROVISIONS

Section 12.1 Enforcement. The Association, or any Owner, shall have the right to enforce, by a proceeding at law or in equity, or as made available in this Declaration, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, the Articles, the Bylaws, or any rules and regulations promulgated by the Association pursuant hereto, including, without limitation, judicial and/or non-judicial foreclosure of any liens herein granted and the appointment of a receiver for the applicable Lot or Lots, or for damages or injunction, or specific performance, or for judgment for the payment of money and the collection thereof, or any combination of such remedies. No remedies herein provided or available at law or in equity shall be deemed mutually exclusive of any other such remedy. Failure by the Association, 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. The Association may adopt rules and regulations with respect to procedures for imposing reasonable fines for the breach by any Owner or any family members, tenant, guest or invitee of any Owner, of the covenants and restrictions contained herein. Neither Association nor any officer, director, agent, or member of the Association, nor any member of the Board of Directors, shall have any liability for failure to enforce any restriction, condition, covenant, reservation, lien, charge or rule.

Section 12.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

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Section 12.3 Term. This Declaration shall be effective and continue in full force and effect for a term of twenty-five (25) years from the date this Declaration is recorded, after which time this Declaration shall be automatically extended for successive periods of ten (10) years unless a termination thereof is approved by the Owners holding ninety percent (90%) of the votes of the Association.

~~Section 12.4 Amendment. This Declaration may only be amended by an instrument signed by an officer of the Association certifying that Owners representing not less than seventy-five percent (75%) of the votes of all of the Members have approved the amendment. Any such amendment must be recorded in official records of Cameron County, Texas.~~

Replaced 11/3/12

Section 12.5 The Additional Property. Notwithstanding anything else to the contrary set forth herein, Association reserves the right to grant non-exclusive easements over the Common Property for Utilities, drainage and other similar matters for the benefit of the Additional Property, which may be developed separate from the Property. Such easements shall be on such basis and subject to such rules and regulations as Association shall determine.

Section 12.6 Rules and Regulations. The Association may from time to time adopt and amend rules and regulations governing the details of the operation, use, maintenance and control of the Dwelling Units (other than Dwelling Units located on the Additional Property), Lots, Property, the Common Property, and any facilities or services made available to the Owners. A copy of the rules and regulations adopted from time to time as provided herein shall be furnished to each Owner.

Section 12.7 Rights and Obligations. The provisions of this Declaration, the Articles and the Bylaws, and the rights and obligations established thereby, shall be deemed to be covenants running with the land comprising the Property, and shall inure to the benefit of, and be binding upon, each and all of the Owners and their respective heirs, legal representatives, personal representatives, successors, assigns, purchasers, grantees, Mortgagees, family members, tenants, guests and invitees. By the recording of the acceptance of a deed conveying a Lot or any ownership interest in a Lot whatsoever, the Owner to whom such Lot or interest is conveyed shall be deemed to have accepted and agreed to be bound by and subject to all of the provisions of this Declaration, the Articles and the Bylaws, whether or not mention thereof is made in said deed.

Section 12.8 Conflicts. In the event of conflict between the terms of this Declaration, the Articles, the Bylaws or any rules and regulations promulgated by the Association pursuant hereto, this Declaration shall control.

Section 12.9 References and Interpretation. Except as otherwise specifically indicated, all references hereto to Section numbers refer to Sections of this Declaration, and all references to an exhibit refers to the exhibits attached hereto. The words "hereby," "herein," "hereto," "hereunder," "hereinafter," and words of similar import, refer to this Declaration as a whole and not to a particular Section hereof. Captions used herein are for convenience only and shall not be used to construe the meaning of any portion of this

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Declaration. The masculine gender shall include the neuter and the feminine, and visa versa. Whenever under the terms of this Declaration the time for performance of a covenant or condition falls on a Saturday, Sunday or legal holiday, such time for performance shall be extended to the next business day; otherwise, all references herein to "days" shall mean calendar days.

Section 12.10 Failure of Association to Perform Duties. Should the Association fail to carry out its duties as specified in this Declaration, the Town or its lawful agents shall have the right and ability, after due notice to the Association, to remove any landscape systems, features or elements that cease to be maintained by the Association, to perform the responsibilities of the Association if the Association fails to do so (in compliance with any of the provisions of the agreements, covenants, or restrictions of the Association, or of any applicable Town codes or regulations); to assess the Association for all costs incurred by the Town in performing said responsibilities if the Association fails to do so, and/or to avail itself of any other enforcement actions available to the Town pursuant to state law or Town codes and regulations. Should the Town exercise its rights as specified above, the Association shall indemnify and hold the Town harmless from any and all costs, expenses, suits, demands, liabilities or damages, including attorney's fees and costs of suit, incurred or resulting from the Town's removal of any landscape systems, features or elements that cease to be maintained by the Association, or from the Town's performance of the aforementioned operations, maintenance or supervision responsibilities of the Association due to the Association's failure to perform said duties.

Section 12.11 Notices. Any notice required to be sent to the Owner of any Lot or Dwelling Unit under the provisions of this Declaration shall be deemed to have been properly sent and given when mailed, postage prepaid, or hand-delivered to the Lot or Dwelling Unit, as applicable, and to the last known address of the person who appears as Owner of such Lot or Dwelling Unit, as applicable, on the records of the Association at the time of such mailing, if different.

Section 12.12 Governing Law. This Declaration shall be construed in accordance with the laws of the State of Texas, both substantive and procedural.


Section 12.13 Assignments. The rights of Declarant herein may, without the consent of any party, be assigned to any third party by an instrument executed with the same formalities as in this instrument.

IN WITNESS WHEREOF, the undersigned signatories have executed this Declaration effective as of the \_\_\_ day of December, 2004.


Added 12.14, 12.15, 12.16  
on 11/3/12

THE VILLAS OF SOUTH PADRE, INC.,

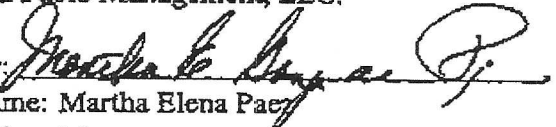
By: [Signature]  
Name: Melissa Mendez  
Title: President

By:   
Name: Lavinia Downing  
Title: Director

**THE VILLAS OF SOUTH PADRE OWNERS ASSOCIATION, INC.,**

By:   
Name: Jeff Gowen  
Title: Director

**PLAYA SAN PABLO, LTD.  
By Its General Partner  
San Pablo Management, LLC.**

By:   
Name: Martha Elena Paetz  
Title: Manager

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STATE OF TEXAS §  
§ SS.  
COUNTY OF DALLAS §

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of December, 2004, by Michael S. McNulty, President of The Villas of South Padre, Inc., a Texas corporation, on behalf of said corporation.



Tabby M. Edwards  
Notary Public, State of Texas

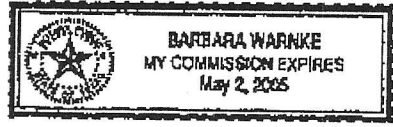
My commission expires: 2-18-08

STATE OF TEXAS §  
§ SS.  
COUNTY OF CAMERON §

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of December, 2004, by Jeff Gowen and Irvine Downing of The Villas of South Padre Owners Association, Inc., a Texas non-corporation, on behalf of said corporation.

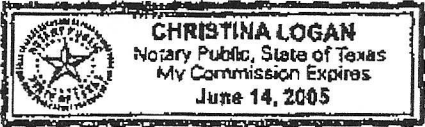
Barbara Warnke  
Notary Public, State of Texas

My commission expires: 05-02-05



STATE OF TEXAS §  
§ SS.  
COUNTY OF CAMERON §

The foregoing instrument was acknowledged before me this 8 day of December, 2004, by Martha Elena Paez, Manager of San Pablo Management, a limited liability company, as General Partner of Playa San Pablo, Ltd., a Texas limited partnership.



Christina Logan  
Notary Public, State of Texas

My commission expires:

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**EXHIBIT "A"**

**Legal Description of Property**

Lot Numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 18, 25, 26, 32, 39, 40, 33A, 33B, 34A, 34B, 35A, 35B, 42A, 42B, 43A, 43B, 44A, 44B, 45A, and 45B, Block Number Three (3), THE VILLAS OF SOUTH PADRE, a Subdivision in the Town of South Padre Island, Cameron County, Texas, according to the map or plat thereof recorded in Cabinet I, Page 1594-B and Amended in Cabinet I, Page 1697-A, Map Records of Cameron County, Texas; and

Lot Numbers 11, 13, 14, 15, 17, 19, 20, 21, 23, 24, 27A, 27B, 28A, 28B, 30A, 30B, 31, 41, 42, 43, and 44, Block Number Three (3), THE VILLAS OF SOUTH PADRE, a Subdivision in the Town of South Padre Island, Cameron County, Texas, according to the Map or plat thereof recorded in Cabinet I, Pages 1886A & B, Map Records of Cameron County, Texas.

**EXHIBIT "B"**

**Legal Description of Additional Property**

Lot 1, Block 4, The Villas Of South Padre, South Padre Island, Texas, according to the Amended Plat thereof recorded in Cabinet 1, Slot 2426-A, Map Records of Cameron County, Texas, being a Replat of Lot 1, Block 1 and Lot 1, Block 4, The Villas Of South Padre, South Padre Island, Texas, according to the Amended Plat thereof recorded in Cabinet 1, Slot 2362-A, Map Records of Cameron County, Texas

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